Tros Tyriusque mihi nullo discrimine agetur

NORTH AMERICAN REVIEW

JUNE, 1914

THE CABINET.—I.

A CONSTRUCTIVE DEPARTMENT OF JUSTICE

BY THE EDITOR

"May I take this occasion to say that the Administration earnestly desires to co-operate with and to promote all business conducted in harmony with law; and that, without abating the insistence that the statutes must be obeyed, it will always welcome opportunity to aid in bringing about whatever adjustments are necessary for the re-establishment of lawful conditions without litigation."

Attorney-General James C. McReynolds gave the key-note of the policy of the Department of Justice in these few words addressed to the vice-president of the American Telephone and Telegraph Company, on December 19, 1913. It marked a change in the attitude of the Government toward all corporations. In a sense, it was a reversal of the practice inaugurated by President Roosevelt and pursued by Attorney-General Wickersham, of enforcing litigation which imposed inordinate expense upon both the Treasury of the United States and the various companies concerned. It opened the way for "settlement out of court" upon a basis which should achieve obedience to law without involving the

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Government in agreements of any kind or fettering subsequent administrations. It was designed, in a word, to be both effective and constructive—and so, in fact, it is proving, to a degree so inadequately appreciated by the public that we begin in this number of the REVIEW the publication of a comprehensive summary of the work done, in progress, and in contemplation.

When Mr. Wilson was assembling the members of his Cabinet, we expressed the opinion that his most difficult task was the selection of an Attorney-General. Mr. Wickersham had proved himself a most efficient administrator as well as a great lawyer. His record, indeed, to our mind, has hardly been surpassed in the history of the Department. Clearly, experience no less than ability was a requisite qualification of a successor who might not easily be dwarfed by comparison. Equally essential to indispensable public favor was known freedom from previous corporate alliances. Fortunately, none appreciated more keenly than the President-elect the power of an Attorney-General, in the exceptional circumstances, to make or break an administration, and he canvassed the country assiduously. A seemingly ideal choice was Mr. Frederick N. Judson of St. Louis, but advancing years weighed against the likelihood that he would be able to withstand the physical strain, and Mr. McReynolds was chosen. No Cabinet appointment, barring possibly that of Mr. Lane, was received more approvingly, and even Mr. Garrison's striking success in a more popular Department can hardly be considered more notable—a fact which must be as gratifying to the President to contemplate as it is to the commentator to record.

We have already presented Mr. McReynolds's golden rule of practice. His general theory can be stated most succinctly in his own words.

"There are," he declares, "only three alternatives in dealing with monopoly: its regulation, somewhat as we regulate railroads; government ownership; or suppression by means of the existing laws. The idea of regulation, including the fixing of prices, strikes me as entirely impracticable. Nor do I believe that we are ready for government ownership of production and distribution. There remains only the remedy furnished by the Sherman law. I do not believe in monopoly; I do not regard it as inevitable or beneficent. It is essentially wicked. And I firmly believe

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that the Sherman law, energetically enforced, can end monopoly.

"Despite much recent discussion, I still believe in the competitive system. Those who say that competition, under present conditions, is impossible, have not sufficiently observed the facts. Even in railroads—in which competition, for all our Sherman law, is said to be impossible—it does exist. Every part of the country that has more than one railroad has good service; every part that has only one road has bad service. And those who rail at the Sherman law should remember what service it has rendered. Had it not been for that law, unquestionably all our railroads would have gone under a single ownership."

This declaration of purpose to achieve genuine competition was not novel. It had already been voiced in characteristically felicitous phrase by President Wilson, who said in his speech accepting the nomination:

> What we are seeking is not destruction of any kind, nor the disruption of any sound or honest thing, but merely the rule of right and of the common advantage. I am happy to say that a new spirit has begun to show itself in the last year or two among influential men of business, and, what is perhaps even more significant, among the lawyers who are their expert advisers; and that this spirit has displayed itself very notably in the last few months in an effort to return, in some degree, at any rate, to the practices of genuine competition. Only a very little while ago our men of business were united in resisting every proposal of change and reform as an attack on business, an embarrassment to all large enterprise, an intimation that settled ideas of property were to be set aside and a new and strange order of things created out of hand. While they thought in that way progress seemed impossible without hot contest and a bitter clash between interests, almost a war of classes. Common counsel seemed all but hopeless, because some of the chief parties in interest would not take part—seemed even to resent discussion as a manifestation of hostility toward themselves. They talked constantly about vested interests and were very hot.
>
> It is a happy omen that their attitude has changed. They see that what is right can hurt no man; that a new adjustment of interests is inevitable and desirable, is in the interest of everybody; that their own honor, their own intelligence, their own practical comprehension of affairs is involved. They are beginning to adjust their business to the new standards. Their hand is no longer against the Nation; they are part of it, their interests are bound up with its interests. This is not true of all of them, but it is true of enough of them to show what the new age is to be, and how the anxieties of statesmen are to be eased, if the light that is dawning broadens into day.

In succeeding numbers of this REVIEW we shall set forth the facts which seem to justify the conclusion that the At-

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torney-General has put into successful and beneficial practice the theory enunciated by the President and himself.

Meanwhile, as a foreword for the information of the many who scarcely comprehend the magnitude of the work in progress, we would direct passing attention to the tasks which devolve upon what has been aptly designated as "the greatest law-office in the world."

The office of Attorney-General was one of the four original Cabinet offices created by the first Congress in 1789. The Department of Justice, however, was not established until 1870; hence for a period of eighty years the Attorney-General, although a recognized member of the Cabinet, was not the head of any executive department. Nor did he during this period enjoy quite the same standing either as to salary or official position as the Cabinet members who were heads of departments, and his proper rank as fourth in the Cabinet was not fixed until the passage of the Act of January 19, 1886, which provides that in case of the removal, death, resignation, or disability of both the President and Vice-President, the duties of the President shall be performed by one of the members of the Cabinet in the order therein specified, the Attorney-General being the fourth member named.

The duties of the Attorney-General as prescribed by the Judiciary Act which created the office were purely legal, consisting merely of representing the Government of the United States in the Supreme Court and rendering opinions on questions of law when required by the President of the United States or requested by the heads of any of the executive departments. He does not appear to have had much to do at the outset, it being of record that he had no business to transact before the Supreme Court at its first two sessions. It was for this reason, doubtless, that his salary was originally fixed at a smaller amount than that of other Cabinet officers; for, with his official duties so light, it was thought that he could and would engage in the private practice of the law, and that the prestige of the office would render it attractive even though the compensation were small.

With the establishment of the Department of Justice in 1870 the duties of the Attorney-General ceased to be of a purely legal nature and became to a great extent executive.

The principal officers of the Department of Justice under

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the Attorney-General are: the Solicitor-General, the Assistant to the Attorney-General, and eight Assistant Attorneys-General, including the Assistant Attorneys-General for the Interior and Post-Office Departments; the Solicitor for the Department of State; the Solicitor of the Treasury; the Solicitor of Internal Revenue; the Solicitor for the Department of Commerce; and the Solicitor for the Department of Labor. The legal and clerical force of the Department of Justice in Washington now numbers approximately 345 persons.

Outside of Washington there are the United States Attorneys and the United States Marshals, one in each of the eighty-six judicial districts in which the United States and Territories are divided; and the officials and employees of the three Federal penitentiaries at Atlanta (Georgia), Leavenworth (Kansas), and McNeil Island (Washington). These are all subordinates of the Attorney-General.

The total number of persons connected with the Department of Justice, including court officials and employees, is about 7,500, the total number of appointments made by or upon the recommendation of the Attorney-General being 2,067.

Generally speaking, the Attorney-General is charged by law with responsibility for the conduct of all legal proceedings involving the interests of the United States. His administrative duties, however, have now become so varied, extensive, and exacting that he can directly participate in the trial and argument of the most important cases only; and even in these he does not usually take part until they reach the Supreme Court, it being the special duty of the various United States District Attorneys to represent the Government in the lower courts. Of course, there are exceptions to this rule. Last fall the present Attorney-General appeared for the Government in the argument of the Harvester Trust Case at St. Paul, Minnesota.

During the last fiscal year there were instituted in the District Courts 3,752 civil and 16,753 criminal cases in which the United States was a party. The civil cases consisted principally of suits for injunctions to prevent violations of laws of the United States and to protect the property interests of the United States, and of suits for penalties and forfeitures under the Customs, Internal Revenue, Post Office, Safety-Appliance, Twenty-eight Hour, Hours of Ser-

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vice, Land and Timber Trespass, and Pure Food and Drug laws. The criminal cases consisted principally of prosecutions for violations of the Customs, Internal Revenue, Post Office, National Banking, Land and Timber Trespass, Pure Food and Drug, Meat Inspection, and Interstate Commerce laws. During the same year there was realized from judgments in favor of the United States, $441,350.05; from old judgments, compromises, etc., $407,671; from fines, forfeitures, and penalties, $689,276.05, and from collections through the office of the Solicitor of the Treasury, in compromises of claims not in suit, $740,334.41; making the total collections for the year from these sources, $2,278,631.51.

The preparation of briefs and arguments in the Supreme Court in cases in which the United States is a party is, of course, one of the most onerous and delicate duties of the Department, since cases which have reached the highest court usually involve important principles or great material interests.

During the October Term, 1912, of the Supreme Court there were one hundred and forty-three cases disposed of in which the United States had an interest. Thirty of these cases were appealed by the United States and one hundred and ten by the other side, and three were certified by lower courts. Each of these cases required the preparation of briefs, motions, etc., and most of them were argued orally. Of the thirty cases appealed by the United States, thirteen were decided in its favor and eight against it, one was decided partly in its favor and partly against it, four were dismissed by it, one was dismissed by the court for want of jurisdiction, two were modified and affirmed, and one was a denial of a petition for writ of certiorari. Of the one hundred and ten cases which the other side appealed, fifty-six were determined in favor of the United States and five against it, three were modified and affirmed, seventeen were dismissed by the appellants, seven were dismissed by the court, three were docketed and dismissed, seventeen were denials of petitions for writs of certiorari, two were denials of applications for writs of error, and three were decisions in favor of the United States on questions certified by the lower courts.

During the current term (October Term, 1913) of the Supreme Court, one hundred and eighty cases have been docketed in which the United States was a party or had a

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substantial interest. Of these, eighty-six have thus far been disposed of.

Among the important cases argued at the current term of the Supreme Court are the Bleached Flour Cases, involving the question whether it is a violation of the Pure Food Law to use poisonous substances, in harmless quantities, in the manufacture of artificial food; the Pipe Line Cases, involving the question whether Congress has the power to declare privately owned pipe lines to be common carriers and to compel them to transport oil for all alike; the cases involving the constitutionality, under the Fifteenth Amendment to the Constitution, of the so-called "Grandfather Clause" of the Oklahoma Constitution; and the Lumber Trust Cases, involving the legality under the Anti-Trust Act of combinations of retail dealers for the purpose of preventing consumers from buying directly from manufacturers and wholesale dealers.

The duty of rendering legal opinions to the President and the heads of the Departments, prescribed by the Judiciary Act creating the office, is still one of the most important which the Attorney-General has to perform. The preparation of these opinions requires great care and research, as they cover every branch of the law and often constitute the basis of governmental action of far-reaching consequences. Sixty-five such opinions were rendered last year. The opinions of the Attorney-General, from the beginning of the Government, have been carefully compiled, and now comprise more than thirty printed volumes.

In addition to these formal opinions, it is the duty of the Attorney-General to pass upon the titles to all lands purchased by the United States. Last year two hundred and thirty-one such opinions were rendered, the estimated value of the lands involved being $3,000,000.

The enforcement of the Anti-Trust law has perhaps as great a public interest at this time as any other work of the department. It is the policy of the department to investigate every substantial complaint of alleged violations of this law, whether made by public authorities or by responsible private citizens, and to authorize prosecutions, of course, in all cases where the investigation shows the complaint to be well founded.

One hundred and sixty-four proceedings have been instituted by the United States under this law since its enact-

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ment. Among these were the suits against the Standard Oil, Tobacco, Coal, United States Steel, Harvester, Union Pacific-Southern Pacific, and other large companies. There are forty-four such proceedings pending at the present time. Of the more recent proceedings, the suits against the anthracite coal-carrying railroads are of great interest and importance. Three such suits have been filed against as many railroads, charging in substance that by means of acquisition of coal-lands, rebates, and discriminations, they have acquired a practical monopoly of the production and sale of coal from mines along their respective lines. These suits also are based to some extent upon the Commodities Clause of the Act to Regulate Commerce, which prohibits a common carrier from transporting any article or commodity which it owns or in which it has any interest.

Another very important branch of the work of the Department of Justice consists of suits and other matters relating to the public lands and water rights of the United States. At the beginning of the present fiscal year there were pending in the courts approximately six hundred and seventy-four civil and two hundred and fifteen criminal cases involving public lands, the majority of them being suits to cancel patents fraudulently obtained and prosecutions for timber trespassing and illegal fencing.

Among the more important of these litigations are the Oregon and California Railroad Land Grant cases. The principal suit in this series is against the railroad, and involves all of the lands granted by the Acts of July 25, 1866, and May 4, 1870, which were still held by the railroad at the time of the institution of the suit, amounting approximately to two million three hundred thousand acres, of the estimated value of $50,000,000. In addition, forty-five suits have been brought against persons who have purchased certain of the lands granted by the above-mentioned Acts in violation of the restrictions imposed. These suits involve about three hundred and ninety thousand acres, of the estimated value of $15,000,000. The object of all these suits is to enforce a forfeiture to the United States of the lands involved, on the ground that the conditions of the grant have been violated.

There are pending also a number of suits looking to the preservation of oil lands for the use of the navy. Experts having concluded that petroleum constitutes a very valua-

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ble fuel for naval purposes, on September 27, 1909, and on several later dates, but prior to the Act of June 25, 1910, expressly giving him authority to make withdrawals of public lands, the President promulgated executive orders reserving immense areas of public oil lands in California, Wyoming, and other States from entry under the Public Land laws. These orders were not generally observed, and it appearing that some of the most valuable of the oil lands sought to be reserved had been and were being entered upon and claimed by individuals and corporations under the Mining and Public Land laws, three suits were instituted against operators in California, and a fourth in Wyoming, and others are in prospect. The suit in Wyoming, being free from disputes of fact and other complications, was selected for the purpose of securing the prompt determination of the question of the President's authority to make the withdrawals. The Government having lost in the District Court, the case was appealed to the Circuit Court of Appeals, which certified the principal question to the Supreme Court, where the case has been argued.

The Department is also charged with the important and laborious duty of defending suits against the United States in the Court of Claims. This litigation originates principally in the numerous contracts made by the different departments and bureaus of the Federal Government; for example, contracts for the building of battle-ships, cruisers, and other vessels, for the erection of public buildings, for the dredging and improvement of rivers and harbors, for army supplies, for carrying mails, for carrying on the operations of the Reclamation Service, etc. It also includes suits on claims growing out of the so-called "Boxer Outbreak" in China in 1900, claims for Indian depredations, and the so-called French Spoliation Claims. During the fiscal year 1913 there were nineteen hundred and sixty-four cases of all kinds filed against the Government in this court, the total amount of the claims being $20,164,288.16; and fifteen hundred and forty-three cases, involving $14,689,427.73, were disposed of, the total amount awarded claimants being but $704,464.65.

The settlement of the French Spoliation Claims has been dragged out over many years. However, of the two thousand nine hundred and twenty-three such cases pending in April, 1913, two thousand six hundred and twenty-six have since

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been disposed of either by trial or on motions to dismiss for failure of claimants to prosecute. The remaining two hundred and ninety-seven cases will be concluded by the fall.

Of all classes of cases in the Court of Claims, seven thousand have been disposed of since April, 1913, either by trial on the merits or upon motions to dismiss for failure of the claimants to prosecute.

An exceedingly important branch of the work of the Department is that of representing the United States in proceedings and litigations involving the customs before the Board of General Appraisers and the United States Court of Customs Appeals. Under the customs laws an importer who is dissatisfied with the decision of the Collector of Customs with respect to the duty on merchandise imported by him may file a written protest, which will entitle him to a hearing upon the law and facts before the Board of General Appraisers which sits at the Port of New York and may take testimony at the ports of Boston, Philadelphia, Baltimore, Chicago, St. Louis, San Francisco, St. Paul, New Orleans, Los Angeles, Portland (Oregon), and Seattle. During the last fiscal year two thousand nine hundred and thirty-four hearings were held by the Board of Appraisers at New York City, and sixty-five hearings at other ports, and the total number of protests disposed of during the year was ninety-eight thousand four hundred and eighty-three. From the decision of the Board of General Appraisers an appeal may be taken to the United States Court of Customs Appeals. During the fiscal year 1913 two hundred and forty-seven cases were decided by that court, the Government being successful in one hundred and fifty-seven and the importers in ninety.

The Assistant Attorneys-General for the Interior and Post Office Departments and the Solicitors for the Departments of State, Treasury, Commerce, and Labor occupy a somewhat anomalous position. Although nominally a part of the force of the Department of Justice and subordinates of the Attorney-General, they have their offices in the several departments to which they are accredited. In fact, they are legal aids to the other Cabinet officers. Since their work for the most part is carried on independently of the Department of Justice, it would be outside the scope of this article to describe their duties further than to say that in general they pass upon questions arising in their respective depart-

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ments in respect of which it would not be appropriate, according to practice and usage, to request the opinion of the Attorney-General.

Another branch of litigation in which the Department has to take part involves the Indian lands. From time to time the Government of the United States has allotted lands to the Indians, and for their protection restrictions were imposed as to sales and conveyances by them. In many instances, however, the Indians have been prevailed upon to make conveyances of lands allotted to them upon very disadvantageous terms. Acting in a sense as their guardian, the Government has instituted thousands of suits to set aside such conveyances. By the provisions of an Act approved March 3, 1893, United States District Attorneys are required to represent the interests of Indians in all suits at law or in equity, except, of course, proceedings against the United States, and many suits have been prosecuted on behalf of the Indians to recover rentals and royalties on their leased lands, to protect their water rights, etc.

Coming now to the purely administrative functions of the Attorney-General, one of the most important is the supervision and control of the affairs of the United States penitentiaries at Atlanta (Georgia), Leavenworth (Kansas), McNeil Island (Washington), and of the jails and reform schools of the District of Columbia, and of the maintenance and support of the United States prisoners throughout the country. Among other things, this involves the letting of contracts for furnishing supplies, building materials, and for construction work at the three Federal penitentiaries, and the prescribing of the rules of discipline in those institutions. The cost of maintaining these institutions during the fiscal year 1913 was $500,238.34.

The number of Federal prisoners confined in the United States penitentiaries, the Government Hospital for the Insane, the National Training School for Boys, and State institutions (other than county jails), on June 30, 1913, was 2,937. Besides these there are many Federal prisoners, the estimated daily number in confinement being about 25,000, sentenced to county jails for periods varying from one to six months for minor infractions of the Federal laws.

Under the Act of June 25, 1910, known as the Federal Parole Law, all United States prisoners sentenced to a term of more than one year may apply for a parole after the ex-

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piration of one-third of that term; and the Attorney-General is charged with the duty of prescribing rules and regulations governing the parole of prisoners and for the general administration of the system. A Board of Parole has been organized for each penitentiary and consists of the Superintendent of Prisons and the warden and physician of the particular institution. Applications for parole are first heard and considered by this Board. If the Board makes a favorable recommendation the case goes to the Attorney-General for his approval or disapproval.

A very burdensome and harassing part of the work of the Attorney-General, and one which requires much of his time and attention, has to do with the exercise of the pardoning power. Under the law all applications for executive clemency (other than for desertion or other offenses against the military or naval laws) must be filed with the Department of Justice. Upon receipt of such an application it is referred at once to the United States Attorney for the district where the trial took place, with directions to submit a report and recommendation, and also to secure, if possible, the views of the trial judge. Reports are also obtained from the warden and prison physician regarding the prisoner's conduct and physical condition. When none of those so consulted advises clemency, the application is not sent to the President, except by his special request or by order of the Attorney-General. It is the duty of the Attorney-General to examine and consider applications for clemency (whether the plea be for absolute pardon, commutation of sentence, remission of fines, or restoration of civil rights) and to transmit them to the President with his conclusions and recommendations. Last year seven hundred and thirty-one such applications were filed with the Department.

Another important duty of the Department is to conduct investigations of alleged violations of the laws of the United States, and for the purpose of obtaining evidence to be used in cases pending or to be instituted, and for such other purposes as the business of the Department requires. The work has now been very thoroughly organized, and consists of special agents who make investigations generally, of expert accountants who are employed principally in investigations of alleged violations of the National Banking laws, and examiners who conduct inquiries into the offices and

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affairs of United States Attorneys, Marshals, Commissioners, and Clerks of Courts. The principal work of the Bureau of Investigation is in connection with the enforcement of the Anti-Trust laws, the National Banking laws, the Neutrality laws, and the White Slave Traffic Act.

No duty which the Attorney-General has to perform is more exacting than that in connection with appointments to office. Not only must he select the persons to fill the positions under his immediate Department—positions requiring especial qualifications and yet paying very small salaries—but he must also examine into the qualifications and hear the representations on behalf of applicants for the much-sought-after positions of United States Attorney and United States Marshal in each of the eighty-six judicial districts, and recommend to the President persons to fill such positions. Again, he must recommend to the President proper persons to be nominated to fill vacancies in the Federal judiciary. This duty involves the most thorough investigation and the exercise of the utmost circumspection and discretion. The Attorney-General has no more important duty than this, and it is exacting and difficult in proportion. There are one hundred and eighty-four Federal judgeships in all, and vacancies are constantly occurring by either death or retirement.

Whilst under the Constitution the Federal judiciary is a co-ordinate branch of the Government, yet the actual administration of the judicial system in no inconsiderable extent rests upon the Attorney-General. Of course, the Attorney-General has no control whatever over the judiciary, but, as the latter make no report to Congress, it becomes the duty of the Attorney-General to make recommendations from time to time for the improvement of the judicial system. Thus experience has shown that the administration of justice has been embarrassed at times in some localities because a judge, although eligible for retirement on full pay, has remained on the bench beyond the time when he was capable of properly discharging his duties. As the Constitution provides that judges may hold their offices during good behavior, it is impossible to compel the judge to retire in such a case. To correct this situation the Attorney-General in his last Annual Report to Congress suggested the enactment of a law providing in substance that when any judge below the Supreme Court fails to avail

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himself of the privilege of retiring, the President shall, with the advice and consent of the Senate, appoint another judge who shall preside over the affairs of the court and have precedence over the older one.

For carrying on the work of the Department of Justice and the United States courts there is expended annually, under the direction of the Attorney-General, the funds of from eighty-five to one hundred different appropriations, amounting in the aggregate to approximately $10,000,000, of which substantially one-half is for the support of the Department of Justice and the other half for the support of the Federal courts. These appropriations provide for the salaries of the justices of the Supreme Court and of the judges of other Federal courts throughout the country, and of the officials and employees of the several branches of the Department of Justice; and also for the fixed and contingent expenses both of the Department and of the courts.

Besides disbursing the appropriations for the support of the Department of Justice and of the Federal courts, it is also the duty of the Attorney-General annually to compile estimates for these appropriations; and an Act of Congress approved July 31, 1894, charges the Attorney-General with the duty of supervising the examination and auditing of the accounts of District Attorneys, Marshals, Commissioners, and Clerks, and other officers of courts.

The first article on the work of the Department of Justice under the direction of Attorney-General McReynolds, bearing upon the adjustment of the affairs of the New York, New Haven & Hartford Railway Company, will appear in the July REVIEW.

EQUALITY BEFORE THE LAW

Permit me to say to the man of labor it has never been a matter of very much concern to the man of great wealth under what form of government he lives. The man of wealth can get along; he always has got along pretty well under any form of government. In the hour of lawlessness, when disorder and crime prevail, he finds a way to protect himself. But there is only one sure and certain protection and safeguard for the poor, and that is a government of just and

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equal laws, faithfully enforced, universally obeyed. That is the goal for which he should always strive—that means peace and prosperity; it means educated children and comfortable homes. He finds his protection in a free, open Republic in whose supreme power and honor all may share and whose orderly justice all may enjoy. Such a government can only come from a law-abiding, home-loving people. In the hour when the supreme question overtopping all others is enforcement of the law, obedience and respect for the expressed mandates of the people, in God's name let not those who are most interested in that great issue either ask or give quarter.—*Senator* WILLIAM E. BORAH.

A FULL year ago, writing in *Harper's Weekly*, we appealed to President Wilson as earnestly as lay within our power to reject the iniquitous proviso to the Sundry Civil Appropriation Bill which forbade the use of money therein appropriated for prosecuting violations of law by labor unions and farmers' associations. Six months later, in this REVIEW, we pronounced his refusal to do so "the one big blot" on his administration, and added:

> In brief, the proviso was regarded by its sponsors as a mere precursor of a definite amendment of the "substantive statutes" to exempt one class from the punishment visited upon all other classes for criminal offenses against the law. Already signs appear that, encouraged by President Wilson's attitude, Mr. Gompers intends to urge this explicit proposal upon Congress at the coming regular session, in conformity with the prediction of Senator Hughes. The inevitableness of this consequence of the President's action was apparent from the beginning. It becomes evident, therefore, that unless the President can and will control and chain the forces opposed to the fundamental principle of "equal rights for all" which he himself has unloosed, the country will very soon face a determined struggle for class domination whose outcome every patriotic citizen must contemplate with the gravest foreboding.

That the original appeal and subsequent warning were made in good faith and were fully warranted, the President can hardly fail now to realize. Nor can he well close his mind to the certainty that, in acting against his declared convictions upon the most specious grounds of expediency, he committed a political blunder of the first magnitude. It would have been easy then, when enthusiasm was at its height and the new broom was sweeping clean, to place the Democratic party squarely and finally against any proposal of legislation in favor of a class. Unfortunately for the

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country, the party, and himself, the President admitted the camel's head, and now, at the most unfortuitous time imaginable, upon the eve of Congressional elections, when Senators and Representatives are most amenable to threats and cajolery, he is confronted by the necessity of closing the door. The frightened compromising constructors of the anti-trust measure now pending attempted to avert the struggle by providing that "nothing contained in the anti-trust laws shall be construed to forbid the existence and operation" of labor unions and the like "or to forbid individual members from carrying out the legitimate objects of such associations," but their halting endeavor has failed utterly. Mr. Gompers has served notice upon the Congress that wholly unnecessary recognition of the "existence" of unions will not suffice; that nothing less than complete exemption from prosecution under the law will be accepted; and that "if the party in power is not in favor of outlawing organized labor, it must give substance to that conviction." Accordingly, on April 30th, the "union-card group" of Congressmen waited upon the President and presented their demands. The *World* recounts the incident:

WASHINGTON, *April 30th.*—Open warfare between the Administration, led by President Wilson, and the American Federation of Labor, led by Samuel Gompers and organized labor's representatives in Congress, is imminent.

The threat of open warfare was made to-day during conference between the President and a delegation of organized labor's spokesmen in Congress. These leaders were Representatives Lewis of Maryland, Keating of Colorado, Casey of Pennsylvania, and Sherwood of Ohio.

Representative Lewis and his delegation went to the White House and demanded of the President that the pending anti-trust bills be amended to exempt organized labor from the application of injunctions, as now provided by the Sherman law. They told the President that the provision in the pending measures, which recognizes the existence of labor organizations and farmers' alliances, does not go far enough.

They demanded, also, that labor be taken out entirely from the classes of interstate business which come under the application of the Sherman law.

These Representatives knew their subservient Congress, but they felt no certainty regarding the President, who said plainly when he signed the Sundry Civil Bill:

If I could have separated from the rest of the bill the item which authorized the expenditure by the Department of Justice of a special sum of $300,000 for the prosecution of violations of the anti-trust law I would have vetoed that item because it places upon the expenditures a limitation

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which is in my opinion unjustifiable in character and principle. But I could not separate it.

What could this mean? That the President would actually veto a measure so ardently desired by so great a number merely because it was "unjustifiable in character and principle"? They would put him to the test; they would find out; they did. The *World's* apparently authorized despatch continues:

When the delegation made known its intentions the President called Attorney-General McReynolds into the conference.

After the arrival of Mr. McReynolds the meeting lasted one hour. At its conclusion none of the Representatives would indicate what the President had told them.

It was ascertained subsequently that the President informed the Representatives he would agree to nothing more than is already provided in the bills. He flatly rejected the demands of the labor representatives and informed them that the provision in the pending legislation complies with the Democratic party's platform pledges.

The President is ready to take the fight to the floor of the House and Senate and to the country. He is of the opinion that organized labor wants the Administration to sanction legislation which would not stand the test of constitutionality in the Federal courts.

Whatever regret one may have felt at the President's initial temporizing is wholly obliterated by his present determination to fight out this issue to a finish, without regard to the effect upon the political fortunes of his party or himself. It is, to our mind, the most courageous act of his career, and, as such, it makes double demand upon the loyalty and fervor of all good citizens.

Now let us analyze!

Replying to an editorial which appeared in the January number of this REVIEW, Mr. Gompers presents his case in the *Federationist*. "The proviso," he says, "which Colonel Harvey attacks is, as all but him know, as follows:

Provided, however, that no part of this money shall be expended in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, the shortening of hours, or bettering the conditions of labor, or for any act done in furtherance thereof not in itself unlawful.

How we could attack a proviso without being aware of its existence or contents is difficult to comprehend; we can only assume that an irresistible desire to sneer eradicated from Mr. Gompers's mental vision his own inept paradox.

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In any case, he submits the following as his own interpretation of the proviso:

> Words cannot more clearly or forcefully state that the purpose of the proviso is to remove the organized workers from prosecution simply and purely because they are organized workers and to secure them equality before the law, and to provide that they shall be punished only for acts in themselves unlawful.
>
> It is not clear to any one who is willing to accept the plain, unmistakable meaning of words in common usage that the purpose of the proviso is not special favors and class legislation, but equal rights and equal opportunities for all?
>
> Does any one who is not an advocate of special interests and a pleader for special favors hold that there should be "prosecution of any class"? Organized workers and all others who desire liberty and equal opportunities for all denounce class prosecution and demand prosecution of unlawful deeds only.

Surely no plainer admission of discrimination could be desired than Mr. Gompers's own that "the purpose of the proviso is to remove the organized workers [and no others] from prosecution." To the question, "Is it not clear that the purpose is not class legislation?" we have no occasion to make response. Senator William Hughes, the leading union-labor representative in Congress and the chief advocate of the measure, did that when he declared frankly, "It is true that it is class legislation in my judgment," and rested his support of the Bill upon the claim that unions are fairly entitled to the very special favors which Mr. Gompers so disingenuously decries. To the further query, "Does any one who is not an advocate of special interests and a pleader for special favors hold that there should be 'prosecution of any class'?" we reply no. True, Mr. Gompers favors prosecution of any and all classes except his own, but Mr. Gompers is openly and avowedly just such an "advocate" and "pleader" as he himself has unwittingly depicted. Nobody else has evinced a desire to prosecute a class; it is the *exemption* of a class from prosecution that is objectionable. To the concluding declaration that organized workers "demand prosecution of unlawful deeds only" we beg to inquire, Since when has it been possible to prosecute lawful deeds?

Why the need of this proviso at all if its sole effect is to assure immunity from punishment of persons who have broken no law? The Bill of Rights, the Constitution, every living statute, every court, does that. No; this proviso con-

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tains much more than mere superfluity. To say that it exempts only "any act not in itself unlawful" is sheer subterfuge. Mr. Taft put his finger on the trickery of the device when he said in his veto message, "Under the law of criminal conspiracy acts lawful in themselves may become the weapons whereby an unlawful purpose is carried out and accomplished." This is notably true of the Anti-Trust Act, under which a man may do many things in an individual capacity to restrain the trade of his competitors, but when he does them in combination with others those lawful acts become unlawful acts. In the words of Senator Sutherland:

> A body of working-men no doubt have a right to enter into an agreement or to enter into a combination or to organize for the purpose of increasing their wages or bettering their condition, and, in so far as the agreement is for that purpose, it is not subject to the provisions of the Anti-Trust law; but that same body of men may restrain trade by doing something else. If their combination indirectly has the effect of operating in restraint of trade, still it is not subject to the provisions of the Anti-Trust law, but if several of these organizations, legitimately gotten together for these legitimate purposes, should afterwards combine for the purpose of restraining trade among the States, they would be subject to prosecution under this law, precisely as would anybody else. The thing which the Sherman Anti-Trust law is aimed at is not capital; it is not labor; it is not farmers' organizations. The thing which the Sherman Anti-Trust law is aimed at is the restraint of trade. The restraint of trade among the several States of the Union is regarded as an evil which ought to be punished by law, and it is no less an evil if brought about by a number of organizations of working-men than if done by a number of organizations of capitalists.
>
> We are not punishing under the Anti-Trust law capitalists because they are capitalists, or because they are engaged in business to make money out of business, or to increase their profit in their business; but we are punishing them because they restrain trade. So, in the same way, we do not undertake to punish organizations of laborers because they are organizations of laborers, or because they are undertaking to increase their wages or to better their conditions, but only when and only because they engage in such combinations and conspiracies, if they ever do, as to result in restraint of trade. Then it is just as much a violation of the Sherman Anti-Trust Act as if it were done by anybody else.

This is the situation as it is to-day. The great law exists, and all are equal before it. Enact the proviso and immediately the "secondary boycott" will be legalized; that is, members of a labor-union will not only be privileged, as now, (1) to strike, (2) to agree to strike, (3) to act under a leader in a strike, and (4) to apply the direct boycott, but they will have the absolute and exclusive right to obstruct the

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natural and ordinary interstate trade and commerce of the United States, contrary to the intent of the Constitution and to the purpose of the Sherman law.

They will be empowered, moreover, to commit criminal acts without restriction and with full impunity. The Attorney-General is forbidden to prosecute any combination *having in view* the increasing of wages, shortening of hours, or bettering the conditions of labor, "so that," in the words of Mr. Taft, "any organization formed with the beneficent purpose described in the proviso might later engage in a conspiracy to destroy by force, violence, or unfair means any employer or employees who failed to conform with its requirements, and yet because of its originally avowed lawful purpose it would be exempt from prosecution by this act, no matter how wicked, how cruel, how deliberate the acts of which it was guilty."

A more shocking proposition from the standpoint of equality before the law cannot be imagined; and yet Mr. Gompers calmly remarks:

> We submit to any fair-minded person of ordinary intelligence as to whether there is anything in that provision that could be sanely construed as substantiating Colonel Harvey's interpretation.

And so do we. Indeed, we do not hesitate to submit the question to persons blessed not only with fair minds, but even with intelligence that is not "ordinary."

Mr. Gompers continues seductively and flamboyantly:

> Organizations of laborers exist because of human needs; they seek human welfare and betterment; they control only human labor power, one and inseparable from their very life.

To which we say, speaking more exactly: Organizations of laborers are made to obtain *their own,* not commonly human, needs; they seek *their own* welfare and betterment, quite naturally and properly; they control only *their own* human labor power; but under the misguidance of Mr. Gompers they seek to control the human labor power of ten times their number who, though not organized, are still supposed to possess the "inalienable rights" of "life, liberty, and the pursuit of happiness."

"Material things," says Mr. Gompers, loftily, "are for the service of human beings; they are external and appropriable."

Immaterial things such as higher wages, we have to infer,

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are internal, even perhaps spiritual, but none the less—shall we say?—when occasion offers, " appropriable."

" Cannot Colonel Harvey see," asks Mr. Gompers, " that there are real differences between organizations for profits and unions of working-men?"

And we answer no. Nor can anybody. Labor is the capital of working-men, and it is brought under unified control to enhance its revenue, its " profits "—for no other purpose under the sun. What nonsense to pretend otherwise or to arrogate an altruism which upon its face is false!

But it is idle to reason with Mr. Gompers; his mind is closed; his dangerous fallacies are firmly fixed. Bereft of argument, he resorts to the traditional method of the country shyster, and makes a personal attack, comprising four explicit falsehoods, which may be ignored with becoming placidity of spirit.

Far more important is the attitude of President Wilson, who " is of the opinion that organized labor wants the Administration to sanction legislation which would not stand the test of constitutionality in the Federal courts." President Taft expressed the same view when, after denouncing the proviso in the Sundry Civil Bill as " class legislation of the most vicious sort," he declared that " if it were enacted as substantive law [as is now proposed] no one, I take it, would doubt its unconstitutionality." This also was the judgment of the eminent lawyers — Senators Edmunds, Evarts, and George—who framed the Act. " But what of it?" ask the advocates of the measure. " If the Supreme Court finds the Bill unconstitutional, it will throw it out; so no harm can result from passing it. But let the courts decide." Even more vicious than the Act itself is this specious plea, put forth at a time when Mr. Roosevelt and his cohorts, in their strident pursuit of " social justice " within or without the law, are moving heaven and earth to discredit the courts as agencies thwarting " the will of the people."

Senator Borah made a telling declaration upon this point on May 9th, when, speaking on the Migratory Bird Bill, he said:

> Undoubtedly the Senator from New Hampshire [Mr. Gallinger] was correct in his idea that as the law is upon the statute-books there should be sufficient appropriation to test it, not only because it is there, but because the policy of it is well grounded. But I want to record, never-

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theless, in passing, that in my opinion it is only one of many laws of this kind which are being passed without the real conviction and judgment of the Senate as to their constitutionality behind them. The evil of that is that they pass on to the courts, and the courts are bound by a different rule and obligated by a different view of the situation, very often holding those provisions of the statute which we pass as constitutional unconstitutional, and therefore the courts are constantly challenged throughout the country as being obstructive in their nature and in their disposition with reference to legislation.

The fact is that if Congress would apply the same rule that the Supreme Court of the United States feels bound to apply, a great number of these measures would never reach the Supreme Court of the United States, and the great and onerous burden would not be placed upon it of declaring many things unconstitutional which we believe as our final judgment are unconstitutional.

Undoubtedly, as Senator Borah declares, the Congress should apply the same rule that the Supreme Court *must* apply, but unhappily, as he is bound to admit, it has often evaded responsibility by refusing to do so. All Presidents, however, have acknowledged a distinct obligation to regard doubt of the constitutionality of an Act as a paramount consideration, and President Wilson, in taking his present stand upon the legal advice of his Attorney-General, has back of him both the Constitution and the precedents.

So, too, with respect to his party's pledge. Much has been made by Mr. Gompers and his followers of the following plank in the Baltimore platform:

The expanding organization of industry makes it essential that there should be no abridgment of the right of wage-earners and producers to organize for the protection of wages and the improvement of labor conditions, to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.

Mr. Gompers brazenly pronounces this declaration "a pledge to enact legislation granting to labor the right of free organization and of all activity in furtherance of organization and of all activity in furtherance of organization not in itself unlawful." The falseness of the pretense is apparent. There is no suggestion of a promise to enact legislation of any kind; it is merely adjudged "essential" that there should be no "abridgment" of rights already possessed, including, of course, that of organizing without being regarded as an "illegal combination in restraint of trade"; and there is not so much as a hint of justification of activity "not in itself unlawful." The President is more than justified in claiming that the proposed clause providing that

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" nothing contained in the Anti-Trust laws shall be construed to forbid the existence and operation " of labor-unions " or to forbid individual members from carrying out the legitimate objects of such associations " is satisfaction in full of the party declaration. The fact is, as noted above, that there was no promise whatever of new legislation, and the sop of " recognition " might well be abandoned, since it implies no additional rights and can serve no other purpose than to confuse the courts with unnecessary verbiage.

Even though the platform had contained the very words wrongfully attributed to it by Mr. Gompers, they would have no binding force upon either the President or his party, for the simple reason that they contravene the principle of equality before the law which is fundamental to the Democratic party, and can no more rightfully be set aside by a mere declaration than an Article of the Constitution can be annulled by a statute. It is upon this very ground—*i. e.*, of basic objection to subsidies, that the President justifies with full warrant in morals his attitude with respect to canal tolls. The plank regarding a second term is in another category.

Mr. Gompers reiterates the familiar assertion that " there never was any intention on the part of Congress to include labor-unions in the Sherman Anti-trust Act." The fact is that the identical amendment now advocated by Mr. Gompers was proposed, was discussed, and was rejected. It was drawn by Senator George, was introduced by Senator Sherman, and, in common with many other amendments, was agreed to perfunctorily without debate by the Senate sitting as Committee of the Whole on March 26, 1890. The Bill was reported back to the Senate on the following day, and, evidences appearing that many of the amendments accepted by the Committee of the Whole were objectionable, Senator Edmunds made this parliamentary announcement:

> Every part of this whole thing, text and amendments—it does not make the least difference which—is open to motions to strike out and insert and every other available motion. Therefore no Senator can be gotten into a trap, as it might be called, or be misled in respect of losing any right to propose to change the bill, to leave something out, or put something in anywhere in it from top to bottom.

The proposal to exempt labor-unions and farmers' associations was discussed at length by Senators Hoar, George, and Edmunds. The Bill was then referred to the Com-

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mittee on Judiciary, with instructions to report within twenty days. What happened in that Committee is best told in Senator Edmunds's own words, to wit:

> All the proposed amendments were sent to the Judiciary Committee, which committee *unanimously decided that such an exemption would not only be unconstitutional, but would be against the fundamental principles of public policy.*

The members of the Committee who voted unanimously to reject the proposed amendment on the grounds stated were Senators Edmunds (Chairman), Ingalls, Hoar, Wilson of Iowa, Evarts, Pugh, Coke, Best, and George. Outside of the Supreme Court itself, President Wilson could hardly find higher recognized authority for the position which he has taken respecting the unconstitutionality of the Gompers Bill; but if he would fortify himself further he can do so by turning to the *Congressional Record* for 1901. On June 2, 1900, the House of Representatives adopted the following Amendment to section 7 of the Sherman Act:

> That nothing in this act shall be so construed as to apply to labor-unions or other labor organizations organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed.

The Bill was referred to the Committee on Judiciary of the Senate, and on February 21, 1901, Senator Spooner made the following statement in debate:

> This Bill passed the House. After it was reported by the Senator from Massachusetts to the committee, with every clause of it stricken out which came from the House, except the proposed amendment as to labor organizations, we had three meetings of that committee devoted to no other subject, at which we talked over, as lawyers do and as lawyers should, the constitutional phases of this legislation frankly and fairly; and I have not heard any man, with perhaps one exception, in that committee express his approval of this Bill—only one.

Simultaneously Senator Hoar recounted this experience:

> There is a further provision that no labor organization or association shall be liable under the Act to which this is an addition. I gave, as chairman of the committee, several full hearings to the representatives of the labor organizations of the country who were interested in promoting this legislation, and also to the representatives of that great organization, the Brotherhood of Locomotive Engineers, and they agreed with me, all of them, that these objections were well taken and that the legislation ought not to pass.

The interesting question immediately arises: Were those representatives of the intelligent Brotherhood of Locomotive

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Engineers and other labor organizations right then, or is Mr. Gompers right now? To our mind there is no question. What labor wants and all it wants, what it needs and all it needs, what it can profit from and all it can profit from, is equality, not special privilege; justice, not undue advantage. History proves clearly enough that capital not only can always care for itself, but that it thrives best upon uneven opportunities afforded by uneven statutes. One has but to look to England to see who are the real gainers from centuries of class control and class legislation. And one need only contrast the condition of our own steadily progressing, improving American working-men with that of stolid, sodden foreign laborers to realize the advantages derived from free and *equal* government.

It is but natural that Mr. Gompers should regard the warfare of classes as a normal condition and the domination of one over others, by whatever means acquired, as essential to its well-being. In that respect he differs from no other English-born, high or low, in whose very bones is bred the spirit of class rivalry and class seeking of class advantage. But in America still lives and rules the mighty force of intelligent and just-minded Public Opinion, whose disapproval no unduly grasping aggregation of segregated interests, whether of capital, labor, religion, or sect, can withstand for long. No one group could ever hope to check the overreaching of greed and compel the revision of perspectives which has been wrought during the past few years by the whole people. Let Labor grasp unequal power and arrogate to itself exceptional privileges as Capital did under the dying generation, and Labor will surely pay a yet heavier penalty, because Labor lacks the accumulated resource of Capital.

"Mr. President," asked Senator McCumber of the great agricultural State of North Dakota, "what benefit will the farmers receive from this exemption? I have not heard of any of them who ever asked for it. We now produce beyond our home consumption in all lines of agricultural products. I do not know of any method by which we can greatly enhance the value of our property or what we have to sell by any character of an organization, so long as you place us in open competition with the whole world. We may derive some benefit from an organization which educates and advises in reference to the law of supply and demand. We

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can accomplish very much in that respect, and I am one who is heartily in favor of agricultural organization for that particular purpose, and to do any other lawful act to enhance the value of their products, but I anticipate that no agricultural organization would ever ask the right to be exempted or be protected if they attempted to do a thing for which they could be prosecuted. I admit the right of the farmers to organize as much as possible to determine what kind of crops it would be best for them to raise in a single year, but I deny the right of any one of that organization to insist upon either a boycott or a night-rider's raid against the farmer who does not see fit to follow its particular advice along that line, and I do not believe the American farmer is asking for any privilege that is not extended to every other American citizen."

"We reaffirm the principles of Democratic government formulated by Thomas Jefferson," declared the Baltimore Convention; and the one great, vital principle enunciated by the founder of Democracy was "Equal and exact justice to all men." Upon that solid rock President Wilson has taken his stand, and he will surely triumph if the country can be aroused to the pressing need of rallying to his support. But let there be no underestimate of the power of the forces arrayed behind Mr. Gompers! The danger that even a veto might not avail is indicated by the fact that the vote in the House of Representatives to override President Taft was 264 ayes to 48 nays.

It is high time that Public Opinion should make itself manifest with increasing vigor, as between the class rule of England and the equal government of America, as between the false guidance of Samuel Gompers and the true leadership of Woodrow Wilson.

Our appeal is to the Press and to the people.

THE WHOLE TRUTH ABOUT MR. LEAVELL

Speaking of "The Diplomats of Democracy" in the February Review, we referred to the new Minister to Guatemala as "the Rev. William H. Lovell, of Austin, Texas, a Baptist minister aged sixty-three." The Houston *Post* promptly and somewhat curtly declared that the diplomat's real name was Leavell instead of Lovell, that he was a

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resident of Mississippi and a Presbyterian, not a Baptist, and "never resided in Austin in his life." Whereupon, accepting the assurance of our well-known contemporary without question, we proffered suitable apology for the inadvertent, though hardly momentous, inaccuracy and proceeded on our way.

But the end was not yet. A semi-official communication arrived presently from His Excellency himself. It was dated "Legation of the United States of America, Guatemala," bore a fine picture of the American eagle surmounted by "E Pluribus Unum," and read as follows:

DEAR SIR,—I do not mean to complain that it is only by a hair's-breadth I narrowly escape, if I do escape, being included in your "galaxy of incompetents"—the newly appointed "Diplomats of Democracy" in Latin America—for one man's opinion of the ability and equipment of another is neither necessarily nor invariably true; and if the two men are not personally known to each other that opinion is not likely to be true at all. But I do wish to say to you that if in your references to the other diplomatic appointments in this section of the world you are as inaccurate as you are in the reference made to this Mission, you would do well to augment and strengthen your "*endeavor*" "to speak the exact truth and draw exact conclusions," and render it more effective.

As one who read after you with delight so many years while you were editing *Harper's Weekly,* and who subscribed to THE NORTH AMERICAN REVIEW wholly because of the announcement that your editorials would appear regularly in that journal, I wish, most regretfully, to say that I agree with the friend whose appeal you deny. I desire also to make record of my distress that you should persistently indulge in just the sort of unfriendly criticism of President Wilson which too often disfigures the editorial section of the REVIEW. You are making the impression on not a few of your readers that you are rather more than anxious to find fault with the present Administration.

I am very truly yours,
WM. HAYNE LEAVELL.

While appreciating His Excellency's kind words, regretting his inability to perceive the difference between helpful and "unfriendly" criticism, and making further record to the effect that his distress was not comparable to our own, we were still wondering why the specific inaccuracies were not noted, when along came the following letter from Representative John Jacob Rogers, of Massachusetts, member of the Committee on Foreign Affairs:

DEAR SIR,—On page 508 of THE NORTH AMERICAN REVIEW for April I observe that you quote a criticism directed by the Houston *Post* against your February editorial on the diplomatic service. This criticism, after referring to two typographical errors in your article, states: "Rev.

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William Haynes Leavell . . . never resided in Austin in his life." Commenting on this you say, "We have no doubt that the Houston *Post* . . . speaks with knowledge." The fact is, however, that you were originally entirely right in your statement and the Houston *Post* is entirely wrong in its attempted correction. On page 86 of the Official Register of the Department of State, issued November 10, 1913, appears an authorized sketch of Mr. Leavell, in the course of which it is stated that he "served as a Director and President, Board of Presbyterian Theological Seminary, Austin, Texas, and of Austin College." Indeed, if the chronological arrangement of this sketch is correct, his service in Austin immediately preceded his appointment as Minister to Guatemala. You were, of course, indicating that Mr. Leavell owed his appointment either to Colonel House or to the Postmaster-General, both residents of Austin. The would-be contradiction of the Houston *Post* deals, with this exception, with trifling typographical mistakes; and in this particular criticism, which perhaps might be said to go more or less to the essence, that newspaper is entirely mistaken. If your striking arraignment of the diplomatic service can be arraigned only typographically, the substance of it only stands the firmer.

Very truly yours,

JOHN JACOB ROGERS.

Simultaneously we received a communication from Mr. J. R. Bingham, proprietor of Bingham's One-Price Cash Store of Carrollton, Mississippi, sarcastically lamenting our unhappy incapacity to state "exact facts" and saying emphatically that Houston, not Austin, was once His Excellency's home; that if he knew Assistant-President House at all it was "chiefly by his reputation," which, by the way, is very good indeed; and that "the United States never had at any court a representative who in character, in ability, and in accomplishments was superior to Minister Leavell." Further inquiry of Mr. Bingham elicited the following response by telegraph:

Baptist minister, Jackson, Mississippi, and New York City. While Baptist pastor in Manchester became Congregationalist. Congregationalist in Boston. Ten years Presbyterian in Meridian. Ten years Presbyterian in Texas. Eight years retired in Carrollton.

The record is now, we think, complete, and we have pleasure in submitting it for public approval. The fact, of course, is that we passed no reflection upon either the ability or the character of Mr. Leavell; we merely questioned his comparative fitness to succeed a diplomat who had been in the service fourteen years. Assuredly he has no place in our "galaxy of incompetents." In one respect, at any rate, his experience is unsurpassed. He certainly has been more kinds of a Minister than anybody we ever heard of.

So, while gently admonishing Colonel R. M. Johnston and

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Mr. George Bailey, proprietor and editor, respectively, of the Houston *Post,* that it is unbecoming of a public journal to impose half-truths upon a trusting contemporary, we return His Excellency's compliments and cordially join with him in the hope that presently all acts of the present Administration will merit commendation.

COMMENT

We perceive no basis in Ambassador (W. H.) Page's remarks to the Royal Literary Fund for the *Tribune's* conclusion that "whatever Ambassador Page represents on any given public occasion, whether country or section or craft or business, that country or section or craft or business may confidently expect him to raise a laugh at its expense." What he said was this:

> From the viewpoint of mere barn-yard gumption it is absurd for anybody to start to spend his life writing. Gambling is more likely to yield a steady income. It is an absurd career and a foolish, foolhardy business. No man has a right to take it up who can avoid doing so.

The *Tribune* finds it "interesting to trace herein the identical vein of humor which led the Ambassador into his recent indiscretion concerning the Panama Canal, which prompted him to tell his fellow magazine editors and publishers, on the occasion of their dinner in his honor before he embarked for England, that he hoped on his return there would be fewer of them, and which tinges the utterances in his book, *The Southerner,* so distasteful to Senator Bacon, of Georgia," and adds that "it is perhaps as good a tribute as any to the sense of humor possessed by the majority of his countrymen that Dr. Page's propensities in this direction do not more seriously interfere with his usefulness as Ambassador."

Our own view is that it is the *Tribune* that betrays inexpertness in forming discriminative judgment of native wit or "exquisite irony," as the *Sun* also mistakenly calls it. Both external and internal evidences clearly impel the inference that the Ambassador was speaking with the utmost seriousness. We believe he was; anyhow, we guess he was. Of the correctness of his opinion we feel less certain. Gambling is commonly reckoned a somewhat hazardous pursuit, but writing, too, is notoriously unproductive, especially

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writing in a barn-yard. Upon the whole—well, perhaps after all—a joke—not a joke—not a joke—a joke? Let the Secretary of State decide.

Speaking of "The Diplomats of Democracy," our new Minister to Norway, the Hon. Albert Schmedeman, although a prosperous dealer in gents' furnishing goods and "a power in Democratic politics in Madison, Wis.," lacked proficiency in the language of the country to which he was assigned and prudently engaged Mr. Hallward T. Askeland, of Minneapolis, to act as private secretary. In due time Mr. Askeland started for Christiania, accompanied by his wife and daughter Ruth, but, alas! when he got there the cupboard was occupied. The Secretary of State had seen to that, so there was nothing for His Excellency to do but inform Mr. Askeland that there was "nothing for him to do." He admitted, however, that "the situation was painful" and offered to obtain tickets to the King's ball for the entire family. But even these did not arrive, and now, according to the Minneapolis *Tribune,* the Norwegian-Americans of the Northwest are threatening to bolt the Democratic ticket. It is an unfortuitous circumstance just at this time, and we trust that Secretary Bryan will mediate promptly for the sake of peace and the party. Why could not His Excellency give Mr. Askeland a place in the store?

Colonel George Harvey has picked Senator Borah as sure to be the Republican candidate for President of the United States. But the Senator from Idaho has quashed that programme. No man who declares that "once our flag goes up in Mexico it will never come down" is fit to sit in the White House.—*Springfield Republican.*

Senator Borah, according to our understanding, expressed an opinion, not a hope signifying a policy. Incidentally, "the flag is still there."

We now know whom to thank for saving the country from the relentless Huerta, through the intervention of the A B C mediators, just when those amateur statesmen, the President and the Secretary of State, had put it at the mercy of the Mexican tyrant by driving him out of Vera Cruz. The modest director-general of the Pan-American Union was the man who did it, and to whom the incompetent Wilson and the brainless Bryan should be at this moment on their knees, moistening his Pan-American shoes with their tears of gratitude.—*Baltimore Sun.*

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It is, we believe, a fact that Mr. Barrett did suggest the form of mediation finally adopted more than a year ago. Inasmuch, moreover, as the accepted proposal came from Pan-American diplomats, there is ample reason to infer that it was appropriated quite naturally and properly. Why Mr. Barrett should be ridiculed for originating a plan which obviously brought intense relief to the President passes comprehension. It was not he who pronounced this Administration an aggregation of amateurs; it was, according to common report, the distinguished President of Harvard University.

The prophecy that Roosevelt will be the Presidential nominee of the Progressives and the Republicans in 1916 is still being repeated, and, apparently, is finding a few believers. If that should happen it would be painful to witness the efforts of a number of esteemed Republican spellbinders to revise the campaign speeches they made in 1912.—*The Commoner.*

We suspect that other aspects of the situation might be even more painful to some.

"The Senator from Rhode Island seems to think our course at Vera Cruz was not right," said Senator Stone. "I will say to him that the whole country approved of that action, except, perhaps, the Senator himself. The Senator lamented the loss of the lives of Americans, but charged our men with taking the lives of two hundred innocent Mexicans. Think of that! Innocent Mexicans—snipers, who were making war on our soldiers against all the rules of civilized warfare."—*Press report.*

Let us see! Did not the British file a similar complaint against our snipers at Lexington, Massachusetts?

Colonel Harvey is, of course, the Great American Adviser, nevertheless his advice to the President to recognize Huerta as the Constitutional President of Mexico did seem a little belated when published in the April number of THE NORTH AMERICAN REVIEW and republished in the *Congressional Record* of April 21.—*Harper's Weekly.*

In the *December* number, child.

First-Son-in-law Francis B. Sayre read this reassuring message to the Kansas City Commercial Club:

Please give the interesting young gentlemen associated with you tonight my most hearty greetings and congratulate them that they start at

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the threshold of a period of better and greater business development than this country has ever seen, conducted along lines of freedom and efficiency.

WOODROW WILSON.

It is good news; better yet would be the assurance that they will cross the threshold before the Congressional elections take place.

As we write, the Colonel is upon the high seas homeward bound and reported to be boiling. Unless all signs and precedents go awry, we shall not lack a theme for animated discourse next month. That is well. Politics is becoming as dull as business. But wait until the Progressives, like the discovered rivers, begin to run up-hill!

We are relieved to learn from the *Commoner* that "Secretary Bryan is the originator of our policy of 'watchful waiting'"; also that he is "not unmindful of the obligations which accompany his position and which involve the power and dignity of the United States."

We infer, from the report that Ambassador Penfield has rented his gorgeous establishment for three years, that no string was attached to his appointment.

If Colonel Harvey of THE NORTH AMERICAN REVIEW wishes us to keep track of where he is at he ought to bring out the REVIEW in a weekly edition.—*St. Louis Globe-Democrat.*
Why not, now, really?—MR. HARVEY, *in* THE NORTH AMERICAN REVIEW *for May.*

If this laconic sentence from Mr. Harvey really forecasts the launching of a new weekly, it will be good news to thousands of people in the United States who came to know his brilliant writings when he was editor of *Harper's Weekly.* There is no writer in America to-day who is his peer in analyzing and criticizing men and events, no writer who has a finer quality of wit and humor, as his editorials reveal. There is something French in the incisiveness of his mind, but something essentially American and Anglo-Saxon in his virility and fearlessness as a commentator on political affairs. Even with the field already pretty well filled, a weekly conducted by Colonel Harvey should be a success from the first.—*St. Louis Pioneer Press.*

Should be, but wasn't.

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MONROE DOCTRINE FUNDAMENTALS

BY PROFESSOR THEODORE S. WOOLSEY

THE Monroe Doctrine in its ninety years of life has been so overlaid with comment and so modified and enlarged in development that we are apt to lose sight of its real and fundamental character. By studying its essential nature, by appreciating upon what it is founded and how it is limited, perhaps we may form a juster sense of its usefulness, its meaning, its legality. But before all and throughout all we must keep in mind that it is a policy, not a law, municipal or international. The distinctions between policy and law are wide and vital; here are certain of them.

A nation's policy is unilateral. Though affecting other states, it is formed without their consent: it may therefore be changed without reference to their wishes. Germany has adopted a naval programme, that is, a policy of building up an important navy, without consulting Great Britain. The United States determined to dig a Panama Canal itself, without getting the consent of other commercial powers except that of England, which had been given a veto of such action by treaty.

A nation's policy is changeable as self-interest dictates. Thus France, a few years ago, nagged England wherever their interests met, by a policy of pin-pricks; then, after her Russian ally proved a broken reed, changed attitude and welcomed England to the Triple Entente—all within a decade.

Policy imposes no continuous obligation upon a state. We here in America are quite accustomed to have the action of one Administration disavowed by the next. Our financial attitude toward China under President Taft and again under President Wilson is an instance.

Policy is based upon considerations which are selfish rather than altruistic. This is because the state, like any

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other incorporate body, has a fiduciary duty toward its subjects which forbids the sacrifice of their interests for the sake of another state.

In all these aspects policy and law differ. A rule of international law comes into being in the last analysis by the common consent of nations. It cannot be created, though it may be suggested, by a single power. Great Britain's maritime strength backed by her administrative and judicial attitude, somewhat more than a century ago, asserted a right to impress seamen out of neutral vessels on the high seas—*i. e.*, to enforce a municipal statute outside of British jurisdiction. Unwarranted by the consent of other states, this practice, though persisted in for years, never became law and finally lapsed. A law is universal, not unilateral; it is fixed, not changeable unless changed by the consent of those who framed it; it *is* binding upon a state even if damaging to that state's interests; it is neither selfish nor altruistic because, once having become operative, no question of self or of interest enters into it. Bearing in mind these distinctions, it remains to show that the Monroe Doctrine has always remained what it was at its inception, a policy. The proof is twofold. First no international agreement can be found which converts it from policy into law. Secondly, there has not come about such acquiescence in it as to change its nature. The first statement is a matter of record and is perfectly clear. The second may be doubted. As examples of an opinion contrary to the above an article in THE NORTH AMERICAN REVIEW for 1903, by Mr. Scruggs, may be quoted, also the reference in Cleveland's Venezuelan Message.

Mr. Scruggs argues thus. "Not one of the European Powers has ever entered formal protest against it; on the contrary, all have acquiesced in it and thus tacitly assented to it. It is therefore a valid part of the public law of this continent, and until abandoned by us or until formally challenged by Europe or until modified or abrogated by public treaty, it will continue to be recognized as part of the International Code of the Christian world."

And Mr. Cleveland said in reply to Lord Salisbury's objection: "It may not have been admitted in so many words to the Code of International Law, but since in international councils every nation is entitled to the rights belonging to it, if the enforcement of the Monroe Doctrine is something we may justly claim, it has its place in the Code of Inter-

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national Law as certainly and as securely as if it were specifically mentioned." The first writer refutes himself, for in the same breath he calls the Doctrine law, yet says we can abandon it; the second expresses himself too vaguely for specific refutation. It is enough to say in reply that the right of the United States to surrender and escape from the Monroe Doctrine or to alter it at will is admitted by every one. If it were a law it could not be escaped from without the assent of those accepting and framing it. To say that it can become a law by mere acquiescence and then be abrogated or modified by the *ex parte* act of one state, is to have a loose and mistaken idea of the nature of the law of nations. Hence when a writer asserts that the Monroe Doctrine is an "obsolete shibboleth" he simply means that it is a policy which has outgrown its usefulness, and, not being law, can be and should be given up, which is a perfectly legitimate argument.

There are now three fundamental principles which characterize the policy of President Monroe as it was and as it is. For the sake of coherence and completeness they are stated together here and then examined separately.

I. The Monroe Doctrine was a statement of policy, originated and maintained by reason of self-interest, not of altruism.

II. It was justifiable by reason of the right of self-defense (which *is* a recognized principle of International Law).

III. It called no new *rights* into being, therefore whenever it oversteps the principle of self-defense reasonably interpreted, the right disappears and the policy is questionable because it then violates the rights of others.

I. The Monroe Doctrine dictated by self-interest. The circumstances which called the Monroe Doctrine into being are too familiar to need repetition. But the underlying motive in it may not be so clear. This had nothing to do with fear of enhancement of Spanish power in Europe which was incidentally struck at, because in the same message the United States was made to disclaim all European ambitions. "Our policy in regard to Europe which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is not to interfere in the internal concerns of any of its powers."

Nor was it designed primarily to aid the Latin-American states in winning their independence or to preserve that in-

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dependence if already won. If, however, Spain should recover her American possessions by the help of her European backers (apostles of absolutism), she would become a menace to the United States upon this continent.

"With the existing colonies or dependencies of any European Power," said Mr. Monroe, "we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them or controlling in any other manner their destiny by any European Power in any other light than as the manifestation of an unfriendly disposition toward the United States. In the war between these new governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered and shall continue to adhere, provided no change shall occur which in the judgment of the competent authorities of this Government shall make a corresponding change on the part of the United States indispensable to their security."

And later in the message came this other reference to the South-American states: "If we look to the comparative strength and resources of Spain and those new governments and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other parties will pursue the same course."

The policy then was one of neutrality, of "leaving the parties to themselves" so far as Spain was concerned, which would not have been the case had the United States desired primarily to help them.

But when intervention was threatened by certain great Powers in behalf of Spain, then indeed was there evidence of "an unfriendly disposition toward the United States." This idea was amplified thus: "It is impossible that the allied Powers should extend their political system to any portion of either [American] continent without endangering our peace and happiness." And again: "We owe it, therefore, to candor, and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety."

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Seventy years later, President Cleveland in his Venezuelan message asserted the same principle in much the same language. "Without attempting extended argument in reply to these positions it may not be amiss to suggest that the doctrine upon which we stand is strong and sound, because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government."

Incidentally, no doubt, the Monroe policy safeguarded Latin America, but its prime object was to protect the United States; it was entered into from motives of self-interest, not of altruism. Neither ethical reasons nor legal reasons, therefore, stand in the way of its alteration or abrogation if a changed policy so wills.

II. The Monroe Doctrine is based upon the right of self-defense.

This is the first law of nations as of individuals. A few sentences are quoted almost at random from a recent and very sound authority, Professor Hershey, to show the nature of this right.

"The right of self-preservation takes precedence in a sense of all other rights and duties and is more than a right in the ordinary use of this term. . . . A state has unquestionably the right under modern conditions to make such preparations and to take such measures as it may deem necessary for its own safety and defense, but it has no right to make a disposition of its forces or assume an attitude threatening to the existence or safety of another state." . . .

"The right of self-preservation includes the right to preserve the integrity and inviolability of its territory with the corresponding duty of respecting that of other states."

It is upon this right of self-defense that the balance of power principle was based, as well as the balancing of alliances, which is its modern substitute. But the danger which warrants action must threaten national territory or national life or the integrity of a nation's institutions. It must be real and serious, not a mere blow at commercial interests or political prestige. And if we study again the language of Monroe's message we shall see how real the menace to the existence of the United States and of its institutions was, which he believed he was combating. "Dangerous to our peace and safety," "endangering our peace and happiness."

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These are the words by which Monroe characterized the proposed intervention of the Holy Alliance in this hemisphere. Such language we should use to-day were a great European Power to seize Cuba, or a great Oriental Power a slice of Lower California.

There are two lines of reasoning to show that self-defense was and is the principle upon which the Monroe Doctrine rests. The first is that upon subsequent declarations of it, this principle has been adhered to and restated in language the most explicit. Examine again the Venezuelan version in 1895. President Cleveland objected to British encroachment upon Venezuela because (in words already quoted) it threatened "our peace and safety as a nation"; because it endangered "the integrity of our free institutions"; because it jeopardized "the tranquil maintenance of our distinctive form of government." Every argument tending to show that the policy was not altruistic proves also, looking at the obverse of the medal, that it must have been based upon the idea and desire of self-protection.

The second proof of our contention is that there exists no other principle upon which the Doctrine can be founded.

Notice what the Monroe Doctrine involved. It met a policy of intervention by a warning of "hands off." It set a limit upon the freedom of action of a friendly Power. In other words, it denied the full sovereignty of that Power. Such a denial of a fundamental right can only be justified by reason of some principle equally fundamental. There is no such principle except that of self-defense. Here was no claim to intervene on the score of outraged humanity as in Greece or Cuba; nor was there any question of international police power such as in southeastern Europe has attempted to justify its interferences, though this in fact is itself dictated by fear, is itself a case of self-defense. The United States, warned by its somewhat sympathetic friends abroad that a plan was on foot to crush the Latin-American republics and restore them to Spain, their former sovereign, realized the danger to itself, announced that it was a danger, and stopped the plan by a public protest. It acted in defense of vital interests; one can hardly reiterate the fact too often.

III. The Monroe Doctrine called no new *rights* into existence.

Here is the opportunity for much loose thinking. Be-

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cause the Doctrine, as a policy, has taken on new forms, has been altered, expanded, developed like the opportunist thing which it is, we are apt to forget that its fundamental base remains and must remain unaltered. It is indeed a paradox that the stronger we have become as a nation, the less we need to fear any power or to consider any principle of self-defense, so much the more broadly has the policy been construed. Whether this expanded policy is justified or unjustifiable is not here discussed. It is the legal right, the basic principle, not the policy of the Doctrine, which is under examination. Whatever becomes of the policy, whether it be expanded or be surrendered, whatever the power of a great state may read into it, the principle upon which it is based remains unchanged. A policy guiding one state and asquiesced in by others may readily change. A law of nations, except with the consent and by the act of all states, does not change. We may, however, well remember that if a right is pushed beyond its reasonable and logical limits, it becomes an aggression upon the rights of others. A policy, therefore, has its limitations. They are reached when the rights of others are violated. By the Ashburton treaty of 1842, disputed territory in northern Maine was by compromise divided between Great Britain and the United States. No one thought the Monroe Doctrine violated, though it meant a gain of territory upon this continent by a European Power and at our very doors. It is reasonable, therefore, to ask for proof that a somewhat similar struggle for territory by the same Power in distant Venezuela, in 1895, was a violation of the Doctrine, was a real danger to *our* safety and to *our* institutions as Cleveland said it was. As a policy, submitted to, by a nation desirous of our good will, it may be defended; as the exercise of a right, not so easily, because the basic principle was probably exceeded and thereby British rights invaded.

This is a single illustration of what seems to the writer a self-evident proposition. If a state pushes its action beyond the rights, reasonably interpreted, upon which that action is based, then *ipso facto*, an aggression has been committed upon some other state's rights, just as truly as one army crossing its own frontier invades a neighbor's territory. There is no middle ground. And inasmuch as rights are based upon law, without a change in the law there can be no expansion of rights.

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The Monroe Doctrine thus is to be regarded from a two-fold point of view: as a policy meaning and accomplishing what other states submit to, and what seems to the United States useful: as a measure of self-defense which cannot be pushed beyond the facts calling for self-defense and yet be legally justifiable.

The writer does not desire to call in question the development of the Monroe Doctrine. That it has greatly changed in course of time is patent to every one. As now ordinarily interpreted it denies to a European Power, under any pretext, fresh acquisition of territory upon the American hemisphere. If European Powers put up with this policy, well and good. If the Latin-American states resent the air of superiority implied in this interpretation, that is a phase of the policy which must be taken into account. If the responsibility which the United States unconsciously assumes for the actions of its neighbors becomes a burden and a danger, that too is a factor. The only purpose of the present argument is to call fresh attention to the fundamental basis of the Doctrine and to its legal, not its practical, limitations, with the thought in mind, however, that no civilized state, the United States least of all, would care to gain the reputation of unscrupulousness in its observance of International Law.

THEODORE S. WOOLSEY.

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THE REAL MONROE DOCTRINE

BY THE HONORABLE ELIHU ROOT, UNITED STATES SENATOR

We are all familiar with President Monroe's famous message of December 2, 1823:

The occasion has been judged proper for asserting as a principle in which the rights and interests of the United States are involved, that the American Continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Powers. . . .

. . . . . .

In the wars of the European Powers in matters relating to themselves we have never taken any part, nor does it comport with our policy to do so. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are of necessity more immediately connected and by causes which must be obvious to all enlightened and impartial observers.

We owe it, therefore, to candor, and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European Power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European Power, in any other light than as the manifestation of an unfriendly disposition toward the United States. In the war between these new Governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered and shall continue to adhere, provided no change shall occur which, in the judgment of the competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security. . . .

It is impossible that the allied Powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can any one believe that our Southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference.

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The occasion for these declarations is a familiar story: The revolt of the Spanish provinces in America which Spain, unaided, was plainly unable to reduce to their former condition of dependence; the reaction against liberalism in Europe which followed the downfall of Napoleon and the restoration of the Bourbons to the throne of France; the formation of the Holy Alliance; the Agreement of its members at the Conferences of Aix-la-Chapelle and Laybach and Verona for the insurance of Monarchy against revolution; the restoration of Ferdinand the Seventh to the throne of Spain by the armed power of France pursuant to this agreement; the purpose of the Alliance to follow the restoration of monarchy in Spain by the restoration of that monarchy's control over its colonies in the New World; the claims both of Russia and of Great Britain to rights of colonization on the Northwest coast; the proposals of Mr. Canning to Richard Rush for a joint declaration of principles by England and the United States adverse to the interference of any other European Power in the contest between Spain and her former colonies; the serious question raised by this proposal as to the effect of a joint declaration upon the American policy of avoiding entangling alliances.

The form and phrasing of President Monroe's message were adapted to meet these conditions. The statements made were intended to carry specific information to the members of the Holy Alliance that an attempt by any of them to coerce the new states of South America would be not a simple expedition against weak and disunited colonies, but the much more difficult and expensive task of dealing with the formidable maritime power of the United States as well as the opposition of England, and they were intended to carry to Russia and incidentally to England the idea that rights to territory in the New World must thenceforth rest upon then existing titles, and that the United States would dispute any attempt to create rights to territory by future occupation.

It is undoubtedly true that the specific occasions for the declaration of Monroe no longer exist. The Holy Alliance long ago disappeared. The nations of Europe no longer contemplate the vindication of monarchical principles in the territory of the New World. France, the most active of the Allies, is herself a republic. No nation longer asserts the right of colonization in America. The general establish-

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ment of diplomatic relations between the Powers of Europe and the American republics, if not already universal, became so when, pursuant to the formal assent of the Powers, all the American republics were received into the Second Conference at The Hague and joined in the conventions there made, upon the footing of equal sovereignty, entitled to have their territory and independence respected under that law of nations which formerly existed for Europe alone.

The declaration, however, did more than deal with the specific occasion which called it forth. It was intended to declare a general principle for the future, and this is plain not merely from the generality of the terms used, but from the discussions out of which they arose and from the understanding of the men who took part in the making and of their successors.

When Jefferson was consulted by President Monroe before the message was sent he replied:

> The question presented by the letters you have sent me is the most momentous which has ever been offered to my contemplation since that of independence. That made us a nation; this sets our compass and points the course which we are to steer through the ocean of time opening on us. And never could we embark upon it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe; our second, never to suffer Europe to intermeddle with cisatlantic affairs.

Three years later Daniel Webster declared that the Doctrine involved the honor of the country. He said in the House of Representatives:

> I look upon it as a part of its treasures of reputation; and, for one, I intend to guard it. . . . I will neither help to erase it nor tear it out; nor shall it be, by any act of mine, blurred or blotted. It did honor to the sagacity of the government, and will not diminish that honor.

Mr. Cleveland said in his Message of December 17, 1895:

> The doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life and cannot become obsolete while our republic endures.

As the particular occasions which called it forth have slipped back into history, the Declaration itself, instead of

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being handed over to the historian, has grown continually a more vital and insistent rule of conduct for each succeeding generation of Americans. Never for a moment have the responsible and instructed statesmen in charge of the foreign affairs of the United States failed to consider themselves bound to insist upon its policy. Never once has the public opinion of the people of the United States failed to support every just application of it as new occasion has arisen. Almost every President and Secretary of State has restated the Doctrine with vigor and emphasis in the discussion of the diplomatic affairs of his day. The Governments of Europe have gradually come to realize that the existence of the policy which Monroe declared is a stubborn and continuing fact to be recognized in their controversies with American countries. We have seen Spain, France, England, Germany, with admirable good sense and good temper, explaining beforehand to the United States that they intended no permanent occupation of territory, in the controversy with Mexico forty years after the Declaration, and in the controversy with Venezuela eighty years after. In 1903 the Duke of Devonshire declared "Great Britain accepts the Monroe Doctrine unreservedly." Mr. Hay coupled the Monroe Doctrine and the Golden Rule as cardinal guides of American diplomacy. Twice within very recent years the whole treaty-making power of the United States has given its formal approval to the policy by the reservations in the signature and in the ratification of the Arbitration Conventions of The Hague Conferences, expressed in these words by the Senate resolution agreeing to ratification of the Convention of 1907:

> Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state, nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of its traditional attitude towards purely American questions.

It seems fair to assume that a policy with such a history as this has some continuing and substantial reason underlying it; that it is not outworn or meaningless or a purely formal relic of the past, and it seems worth while to consider carefully what the Doctrine is and what it is not.

No one ever pretended that Mr. Monroe was declaring a

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rule of international law or that the Doctrine which he declared has become international law. It is a declaration of the United States that certain acts would be injurious to the peace and safety of the United States, and that the United States would regard them as unfriendly. The Declaration does not say what the course of the United States will be in case such acts are done. That is left to be determined in each particular instance. Mr. Calhoun said, in the Senate debate on the Yucatan Bill, in 1848:

> Whether you will resist or not and the measure of your resistance—whether it shall be by negotiation, remonstrance, or some intermediate measure or by a resort to arms; all this must be determined and decided on the merits of the question itself. This is the only wise course. . . . There are cases of interposition where I would resort to the hazard of war with all its calamities. Am I asked for one? I will answer. I designate the case of Cuba.

In particular instances, indeed, the course which the United States would follow has been very distinctly declared, as when Mr. Seward said, in 1865:

> It has been the President's purpose that France should be respectfully informed upon two points: namely, first, that the United States earnestly desires to continue and to cultivate sincere friendship with France. Secondly, that this policy would be brought in imminent jeopardy unless France could deem it consistent with her honor to desist from the prosecution of armed intervention in Mexico to overthrow the domestic republican government existing there and to establish upon its ruins the foreign monarchy which has been attempted to be inaugurated in the capital of that country.

So Secretary Buchanan said, in 1848:

> The highest and first duty of every independent nation is to provide for its own safety; and acting upon this principle, we should be compelled to resist the acquisition of Cuba by any powerful maritime State, with all means which Providence has placed at our command.

And Secretary Clayton said, in 1849:

> The news of the cession of Cuba to any foreign power would in the United States be the instant signal for war. No foreign power would attempt to take it that did not expect a hostile collision with us as an inevitable consequence.

The Doctrine is not international law, but it rests upon the right of self-protection, and that right is recognized by international law. The right is a necessary corollary of independent sovereignty. It is well understood that the exercise

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of the right of self-protection may and frequently does extend in its effect beyond the limits of the territorial jurisdiction of the State exercising it. The strongest example probably would be the mobilization of an army by another power immediately across the frontier. Every act done by the other power may be within its own territory. Yet the country threatened by the state of facts is justified in protecting itself by immediate war. The most common exercise of the right of self-protection outside of a state's own territory and in time of peace is the interposition of objection to the occupation of territory, of points of strategic military or maritime advantage, or to indirect accomplishment of this effect by dynastic arrangement. For example, the objection of England in 1911 to the occupation of a naval station by Germany on the Atlantic Coast of Morocco; the objection of the European Powers generally to the vast force of Russia extending its territory to the Mediterranean; the revision of the Treaty of San Stefano by the Treaty of Berlin; the establishment of buffer states; the objection to the succession of a German prince to the throne of Spain; the many forms of the Eastern Question; the centuries of struggle to preserve the balance of power in Europe—all depend upon the very same principle which underlies the Monroe Doctrine; that is to say, upon the right of every sovereign state to protect itself by preventing a condition of affairs in which it will be too late to protect itself. Of course each state must judge for itself when a threatened act will create such a situation. If any state objects to a threatened act and the reasonableness of its objection is not assented to, the efficacy of the objection will depend upon the power behind it.

It is doubtless true that in the adherence of the American people to the original Declaration there was a great element of sentiment and of sympathy for the people of South America who were struggling for freedom, and it has been a source of great satisfaction to the United States that the course which it took in 1823 concurrently with the action of Great Britain played so great a part in assuring the right of self-government to the countries of South America. Yet it is to be observed that in reference to the South-American governments as in all other respects, the international right upon which the Declaration expressly rests is not sentiment or sympathy or a claim to dictate what kind of government any other country shall have, but the safety of the United States.

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It is because the new governments cannot be overthrown by the allied Powers "without endangering our peace and happiness"; that "the United States cannot behold such interposition in any form with indifference."

We frequently see statements that the Doctrine has been changed or enlarged; that there is a new or different Doctrine since Monroe's time. They are mistaken. There has been no change. One apparent extension of the statement of Monroe was made by President Polk in his messages of 1845 and 1848, when he included the acquisition of territory by a European Power through cession as dangerous to the safety of the United States. It was really but stating a corollary to the Doctrine of 1823 and asserting the same right of self-protection against the other American states as well as against Europe.

This corollary has been so long and uniformly agreed to by the Government and the people of the United States that it may fairly be regarded as being now a part of the Doctrine.

But, all assertions to the contrary notwithstanding, there has been no other change or enlargement of the Monroe Doctrine since it was first promulgated. It must be remembered that not everything said or written by Secretaries of State or even by Presidents constitutes a national policy or can enlarge or modify or diminish a national policy.

It is the substance of the thing to which the nation holds, and that is and always has been that the safety of the United States demands that American territory shall remain American.

The Monroe Doctrine does not assert or imply or involve any right on the part of the United States to impair or control the independent sovereignty of any American state. In the lives of nations, as of individuals, there are many rights unquestioned and universally conceded. The assertion of any particular right must be considered, not as excluding all others, but as coincident with all others which are not inconsistent. The fundamental principle of international law is the principle of independent sovereignty. Upon that all other rules of international law rest. That is the chief and necessary protection of the weak against the power of the strong. Observance of that is the necessary condition to the peace and order of the civilized world. By the declaration of that principle the common judgment of civilization awards to the smallest and weakest state the

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liberty to control its own affairs without interference from any other power, however great.

The Monroe Doctrine does not infringe upon that right. It asserts the right. The declaration of Monroe was that the rights and interests of the United States were involved in maintaining a condition, and the condition to be maintained was the independence of all the American countries. It is " the free and independent condition which they have assumed and maintained " which is declared to render them not subject to future colonization. It is " the governments who have declared their independence and maintained it and whose independence we have on great consideration and on just principles acknowledged " that are not to be interfered with. When Mr. Canning's proposals for a joint declaration were under consideration by the Cabinet in the month before the famous message was sent, John Quincy Adams, who played the major part in forming the policy, declared the basis of it in these words:

> Considering the South Americans as independent nations, they themselves and no other nation had the right to dispose of their condition. We have no right to dispose of them either alone or in conjunction with other nations. Neither have any other nations the right of disposing of them without their consent.

In the most critical and momentous application of the Doctrine Mr. Seward wrote to the French Minister:

> France need not for a moment delay her promised withdrawal of military forces from Mexico and her putting the principle of non-intervention into full and complete practice in regard to Mexico through any apprehension that the United States will prove unfaithful to the principles and policy in that respect which on their behalf it has been my duty to maintain in this now very lengthened correspondence. The practice of this government from its beginning is a guarantee to all nations of the respect of the American people for the free sovereignty of the people in every other state. We received the instructions from Washington. We applied it sternly in our early intercourse even with France. The same principle and practice have been uniformly inculcated by all our statesmen, interpreted by all our jurists, maintained by all our Congresses, and acquiesced in without practical dissent on all occasions by the American people. It is in reality the chief element of foreign intercourse in our history.

In his message to Congress of December 3, 1906, President Roosevelt said:

> In many parts of South America there has been much misunderstanding of the attitude and purposes of the United States toward the other Amer-

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ican republics. An idea had become prevalent that our assertion of the Monroe Doctrine implied or carried with it an assumption of superiority and of a right to exercise some kind of protectorate over the countries to whose territory that Doctrine applies. Nothing could be farther from the truth.

He quoted the words of the Secretary of State then in office to the recent Pan-American Conference at Rio Janeiro:

> We deem the independence and equal rights of the smallest and weakest member of the family of nations entitled to as much respect as those of the greatest empire, and we deem the observance of that respect the chief guarantee of the weak against the oppression of the strong. We neither claim nor desire any rights or privileges or powers that we do not freely concede to every American republic.

And the President then proceeded to say of these statements:

> They have my hearty approval, as I am sure they will have yours, and I cannot be wrong in the conviction that they correctly represent the sentiments of the whole American people. I cannot better characterize the true attitude of the United States in its assertion of the Monroe Doctrine than in the words of the distinguished former Minister of Foreign Affairs of Argentina, Doctor Drago, " . . . the traditional policy of the United States, without accentuating superiority or seeking preponderance, condemned the oppression of the nations of this part of the world and the control of their destinies by the great Powers of Europe."

Curiously enough, many incidents and consequences of that independent condition itself which the United States asserted in the Monroe Doctrine have been regarded in some quarters as infringements upon independence resulting from the Monroe Doctrine. Just as the personal rights of each individual free citizen in the state are limited by the equal rights of every other free individual in the same state, so the sovereign rights of each independent state are limited by the equal sovereign rights of every other independent state. These limitations are not impairments of independent sovereignty. They are the necessary conditions to the existence of independent sovereignty. If the Monroe Doctrine had never been declared or thought of, the sovereign rights of each American republic would have been limited by the equal sovereign rights of every other American republic, including the United States. The United States would have had a right to demand from every other American state observance of treaty obligations and of the

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rules of international law. It would have had the right to insist upon due protection for the lives and property of its citizens within the territory of every other American state, and upon the treatment of its citizens in that territory according to the rules of international law. The United States would have had the right as against every other American state to object to acts which the United States might deem injurious to its peace and safety, just as it had the right to object to such acts as against any European Power, and just as all European and American Powers have the right to object to such acts as against one another. All these rights which the United States would have had as against other American states it has now. They are not in the slightest degree affected by the Monroe Doctrine. They exist now just as they would have existed if there had been no Monroe Doctrine. They are neither greater nor less because of that Doctrine. They are not rights of superiority; they are rights of equality. They are the rights which all equal independent states have as against one another. And they cover the whole range of peace and war.

It happens, however, that the United States is very much bigger and more powerful than most of the other American republics. And when a very great and powerful state makes demands upon a very small and weak state it is difficult to avoid a feeling that there is an assumption of superior authority involved in the assertion of superior power, even though the demand be based solely upon the right of equal against equal. An examination of the various controversies which the United States has had with other American Powers will disclose the fact that in every case the rights asserted were rights not of superiority, but of equality. Of course, it cannot be claimed that great and powerful states shall forego their just rights against smaller and less powerful states. The responsibilities of sovereignty attach to the weak as well as to the strong, and a claim to exemption from those responsibilities would imply not equality, but inferiority. The most that can be said concerning a question between a powerful state and a weak one is that the great state ought to be especially considerate and gentle in the assertion and maintenance of its position; ought always to base its acts not upon a superiority of force, but upon reason and law; and ought to assert no rights against a small state because of its weakness which it would not assert

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against a great state notwithstanding its power. But in all this the Monroe Doctrine is not concerned at all.

The scope of the Doctrine is strictly limited. It concerns itself only with the occupation of territory in the New World to the subversion or exclusion of a pre-existing American government. It has not otherwise any relation to the affairs of either American or European states. In good conduct or bad, observance of rights or violations of them, agreement or controversy, injury or reprisal, coercion or war, the United States finds no warrant in the Monroe Doctrine for interference. So Secretary Cass wrote, in 1858:

> With respect to the causes of war between Spain and Mexico the United States have no concern, and do not undertake to judge them. Nor do they claim to interpose in any hostilities which may take place. Their policy of observation and interference is limited to the permanent subjugation of any portion of the territory of Mexico, or of any other American state, to any European power whatever.

So Mr. Seward wrote, in 1861, concerning the allied operations against Mexico:

> As the undersigned has heretofore had the honor to inform each of the plenipotentiaries now addressed, the President does not feel at liberty to question, and does not question, that the sovereigns represented have undoubted right to decide for themselves the fact whether they have sustained grievances, and to resort to war against Mexico for the redress thereof, and have a right also to levy the war severally or jointly.

So when Germany, Great Britain, and Italy united to compel by naval force a response to their demands on the part of Venezuela, and the German Government advised the United States that it proposed to take coercive measures to enforce its claims for damages and for money against Venezuela, adding, "We declare especially that under no circumstances do we consider in our proceedings the acquisition or permanent occupation of Venezuelan territory," Mr. Hay replied:

> That the Government of the United States, although it regretted that European Powers should use force against Central and South American countries, could not object to their taking steps to obtain redress for injuries suffered by their subjects, provided that no acquisition of territory was contemplated.

Quite independently of the Monroe Doctrine, however, there is a rule of conduct among nations under which each nation is deemed bound to render the good offices of friend-

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ship to the others when they are in trouble. The rule has been crystallized in the provisions of The Hague Convention for the pacific settlement of international disputes. Under the head of "The Maintenance of General Peace" in that Convention substantially all the Powers of the world have agreed:

> With a view to obviating as far as possible recourse to force in the relations between states, the Contracting Powers agree to use their best efforts to insure the pacific settlement of international differences.
>
> In case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.
>
> Independently of this recourse, the Contracting Powers deem it expedient and desirable that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the states at variance. . . . The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.
>
> The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the states at variance.

The United States has frequently performed this duty in controversies between American republics among themselves and between American republics and European states. So in the controversy last referred to, the United States used her good offices to bring about a series of arbitrations which superseded the resort of force determined upon by the allied Powers against Venezuela. She did this upon the request of Venezuela. She did it in the performance of no duty and the exercise of no right whatever except the duty and the right of friendship between equal sovereign states. The Monroe Doctrine has nothing whatever to do with acts of this description; yet many times censorious critics, unfamiliar with the facts and uninstructed in the customs and rules of action of the international world, have accused the United States in such cases of playing the rôle of schoolmaster, of assuming the superiority of guardianship, of aiming at a protectorate.

As the Monroe Doctrine neither asserts nor involves any right of control by the United States over any American nation, it imposes upon the United States no duty toward European Powers to exercise such a control. It does not call upon the United States to collect debts or coerce conduct or redress wrongs or revenge injuries. If matters ever come

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to a point where in any American country the United States intervenes by force to prevent or end an occupation of territory to the subversion or exclusion of an American government, doubtless new rights and obligations will arise as a result of the acts done in the course of the intervention. Unless such a situation shall have arisen there can be no duty on the part of the United States beyond the exercise of good offices as between equal and independent nations.

There are, indeed, special reasons why the United States should perform that duty of equal friendship to the full limit of international custom and international ethics as declared in The Hague Convention, whenever occasion arises in controversy between American and European Powers. There is a motive for that in the special sympathy and friendship for the gradually developing republics of the South which the American people have always felt since the days of Monroe and John Quincy Adams and Richard Rush and Henry Clay. There is a motive in the strong desire of our Government that no controversy between a European and an American state shall ever come to the point where the United States may be obliged to assert by force the rule of national safety declared by Monroe. And there is a motive in the proper desire of the United States that no friendly nation of Europe or America shall be injured or hindered in the prosecution of its rights in any way or to any extent that can possibly be avoided because that nation respects the rule of safety which Mr. Monroe declared and we maintain. None of these reasons for the exercise of the good offices of equality justifies, nor do all of them together justify, the United States in infringing upon the independence or ignoring the equal rights of the smallest American state.

Nor has the United States ever in any instance during the period of almost a century which has elapsed made the Monroe Doctrine or the motives which lead us to support it the ground or excuse for overstepping the limits which the rights of equal sovereignty set between equal sovereign states.

Since the Monroe Doctrine is a declaration based upon this nation's right of self-protection, it cannot be transmuted into a joint or common declaration by American states or any number of them. If Chile or Argentina or Brazil were to contribute the weight of her influence toward

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a similar end, the right upon which that nation would rest its declaration would be its own safety, not the safety of the United States. Chile would declare what was necessary for the safety of Chile. Argentina would declare what was necessary for the safety of Argentina. Brazil, what was necessary for the safety of Brazil. Each nation would act for itself and in its own right, and it would be impossible to go beyond that except by more or less offensive and defensive alliances. Of course, such alliances are not to be considered.

It is plain that the building of the Panama Canal greatly accentuates the practical necessity of the Monroe Doctrine as it applies to all the territory surrounding the Caribbean or near the Bay of Panama. The plainest lessons of history and the universal judgment of all responsible students of the subject concur in teaching that the potential command of the route to and from the Canal must rest with the United States, and that the vital interests of the nation forbid that such command shall pass into other hands. Certainly no nation which has acquiesced in the British occupation of Egypt will dispute this proposition. Undoubtedly, as one passes to the south and the distance from the Caribbean increases, the necessity of maintaining the rule of Monroe becomes less immediate and apparent. But who is competent to draw the line? Who will say, "To this point the rule of Monroe should apply; beyond this point, it should not"? Who will say that a new national force created beyond any line that he can draw will stay beyond it and will not in the long course of time extend itself indefinitely?

The danger to be apprehended from the immediate proximity of hostile forces was not the sole consideration leading to the Declaration. The need to separate the influences determining the development and relation of states in the New World from the influences operating in Europe played an even greater part. The familiar paragraphs of Washington's Farewell Address upon this subject were not rhetoric. They were intensely practical rules of conduct for the future guidance of the country.

> Europe has a set of primary interests which to us have none, or a very remote, relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and col-

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lisions of her friendships or enmities. Our detached and distant situation invites and enables us to pursue a different course.

It was the same instinct which led Jefferson, in the letter to Monroe already quoted, to say:

> Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe; our second, never to suffer Europe to intermeddle with cisatlantic affairs.

The concurrence of Washington and Hamilton and Jefferson in the declaration of this principle of action entitles it to great respect. They recalled the long period during which every war waged in Europe between European Powers and arising from European causes of quarrel was waged also in the New World. English and French and Spanish and Dutch killed and harried one another in America, not because of quarrels between the settlers in America, but because of quarrels between the European Powers having dominion over them. Separation of influences as absolute and complete as possible was the remedy which the wisest of Americans agreed upon. It was one of the primary purposes of Monroe's Declaration to insist upon this separation, and to accomplish it he drew the line at the water's edge. The problem of national protection in the distant future is one not to be solved by the first impressions of the casual observer, but only by profound study of the forces which, in the long life of nations, work out results. In this case the results of such a study by the best men of the formative period of the United States are supported by the instincts of the American democracy holding steadily in one direction for almost a century. The problem has not changed essentially. If the Declaration of Monroe was right when the message was sent, it is right now. South America is no more distant to-day than it was then. The tremendous armaments and international jealousies of Europe afford little assurance to those who think we may now abandon the separatist policy of Washington. That South-American states have become too strong for colonization or occupation is cause for satisfaction. That Europe has no purpose or wish to colonize American territory is most gratifying. These facts may make it improbable that it will be necessary to apply the Monroe Doctrine in the southern parts of South America; but they furnish no reason whatever for retracting or denying or abandoning a decla-

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ration of public policy, just and reasonable when it was made, and which, if occasion for its application shall arise in the future, will still be just and reasonable.

A false conception of what the Monroe Doctrine is, of what it demands and what it justifies, of its scope and of its limits, has invaded the public press and affected public opinion within the past few years. Grandiose schemes of national expansion invoke the Monroe Doctrine. Interested motives to compel Central or South American countries to do or refrain from doing something by which individual Americans may profit invoke the Monroe Doctrine. Clamors for national glory from minds too shallow to grasp at the same time a sense of national duty invoke the Monroe Doctrine. The intolerance which demands that control over the conduct and the opinions of other peoples which is the essence of tyranny invoke the Monroe Doctrine. Thoughtless people who see no difference between lawful right and physical power assume that the Monroe Doctrine is a warrant for interference in the internal affairs of all weaker nations in the New World. Against this supposititious doctrine many protests both in the United States and in South America have been made, and justly made. To the real Monroe Doctrine these protests have no application.

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INTERNATIONAL SETTLEMENTS

BY BRIGADIER-GENERAL WILLIAM CROZIER, CHIEF OF ORDNANCE, U. S. A.

In a discussion concerning a judicial settlement of international disputes it is important to emphasize the difference between that kind of settlement and a settlement by diplomacy, or by any sort of adjustment in which the parties make mutual concessions. The prominent association known as the "Society for the Judicial Settlement of International Disputes" advocates a settlement by a court similar to the courts established within nations, before which a cause may be tried, and from which the party rightfully appreciating that it has the law and precedent on its side can confidently expect judgment in its favor, however radical such judgment may be, and however completely it may deprive the other party of any shred of comfort from the result. Senator Root made the following statement in regard to such an international court:

> It has seemed to me very clear that in view of these practical difficulties standing in the way of our present system of arbitration, the next step by which the system of peaceable settlement of international disputes can be advanced, the pathway along which it can be pressed forward to universal acceptance and use, is to substitute for the kind of arbitration we have now, in which the arbitrators proceed according to their ideas of diplomatic obligation, real courts where judges, acting under the sanctity of the judicial oath, pass upon the rights of countries, as judges pass upon the rights of individuals, in accordance with the facts as found and the law as established.

President Taft, in speaking of the treaties of arbitration which he had negotiated with Great Britain and France, said:

> I believe the arbitral court to be the solution of the difficulty; and when I say "arbitral court" I mean a court whose jurisdiction and power are

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established by joint agreement of all nations, a court into which one nation may summon another for a hearing upon a complaint and for a judgment, and may rely upon the judgment being carried out through the public opinion of the nations, or by an auxiliary force, if necessary. When we have such an arbitral court, then disarmament will follow.

The article of the treaties which caused most discussion, and the one whose material amendment by the Senate afterward caused the treaties to be dropped, provided an agreement that there should be submitted to judicial settlement all questions which should be justiciable in their nature, and these were immediately defined in the article to be such questions as would be susceptible of decision by the application of the principles of law or equity. This would, of course, mean nothing but the principles of law or equity as they were understood at the time, resulting from previous practice. It was well recognized by Mr. Taft that such settlement might result at times in the complete defeat of one of the contesting parties. He said:

Arbitration cannot result in victory for both parties. Somebody has got to be beaten. We cannot play "Heads I win, tails you lose." We have got to have the people accept the fact that sometimes we may be beaten. We ought not to arrange something with a string to it so that when we think we are going to lose we can back out of arbitration and open up the possibility of war. We ought to put ourselves in such a situation that sometimes it will hurt us; we ought to subscribe to and carry out the treaty and stand to its terms.

The character of the judicial settlement which many well-disposed and intelligent people urge us to bind ourselves to has thus been dwelt upon, in order that we may submit it to the only kind of test which is worth anything, in the absence of practical trial; that is, the test of its application to incidents which have arisen in the world's history, and the estimation of its probable effect. We can examine the causes of some of the wars which have occurred, and form an opinion of what the settlement would have been had the judicial process been employed, instead of war, and see how we would have liked the result.

With our own nation, the war which resulted in its birth may not with strict accuracy be called the culmination of an international dispute, since it was the revolt of colonies from the mother-country. But it was a war between communities of considerable size, geographically separated, over distinct questions of policy, and thus exhibits quite enough for our

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purpose of the characteristics of a war between nations. We have been in the habit of assigning as the most immediate cause of the war objection to taxation without representation, but the objection to this upon the part of the colonists was only a part of their claim that the American Colonies constituted such distinct communities that they were entitled to local self-government, in their internal affairs, and even in certain affairs which concerned their relations with the outside world. The reasoning of the colonists upon the new state of affairs which had arisen in the progress of the world led them to a conclusion at variance with the principles which had theretofore been considered as universally governing. As to the right of self-government, this was a more radical departure from precedent than the other claim in that it involved a broader abandonment of the old rules, and included not only representation for taxation, but a general freedom from the authority which had theretofore always been distinctly claimed, although it had been in many respects leniently exercised with reference to the American Colonies. The claims of the colonists were therefore revolutionary in their character, and by this very statement of their nature are stamped as having been such as could not have been allowed by a judicial tribunal, which has no authority to make new laws or to change existing laws.

The colonists wished the old rules, not to be applied to a new condition, but to be reversed, which would necessarily involve some kind of lawmaking process. That the previously existing law was not statutory law does not obscure our understanding of what it was. It is often thus with international law, which is none the less clear because it has not been enacted by a legislative body. If the American colonists could have won their contentions before a judicial body such as could have been gathered together in the world at that time, it seems clear that it would have been because of the prejudice aroused in the civilized world against the power and prestige of Great Britain, and would have necessarily resulted from so great an abandonment of the judicial attitude which becomes such a body as to cause the latter to lose its proper character as a court.

The first distinctly foreign war in which the new American nation was engaged was that of 1812. In regard to this war

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the Hon. John W. Foster, in an address entitled "The Foreign Wars of the United States," stated that—

> The single question upon which war was finally declared was that of blockade, and immediately after the war began the question was transferred to impressment, both of which are pure subjects of international law and practice.

As the first-mentioned cause had really ceased to exist at the time war was commenced, we may leave it out of consideration and examine only the question of impressment. This was a subject of international law and practice, and it is pertinent to examine what the law and the practice were, and how we would have come out of a judicial determination of them. General Foster makes many quotations in support of his view that the subject of impressment could have been brought under the rules of existing international law. In quoting Hall on this subject he states English practice at the beginning of the nineteenth century to have been that "if a foreign-naturalized Englishman was met on the high seas in a foreign merchant ship he could be taken out of it, the territoriality of such ships not being then recognized." He calls attention to the statement of Canning, British Foreign Secretary, that

> "when mariners, subjects of his Majesty, are employed in the private service of foreigners, . . . those subjects may be taken at sea out of the service of such foreign individuals and recalled to that paramount duty which they owe their sovereign and their country. . . . It is needless to repeat that these rights existed in their fullest force for ages previous to the establishment of the United States of America; and it would be difficult to contend that the recognition of that independence can have operated any change in this respect.

The United States, from the beginning of the argument of the question, denied the right of visitation and search for impressment, and commenced almost immediately to give expression to this denial. But the British Government held strictly to it, and, when Madison was Secretary of State, gave the following instructions to the British Minister at Washington:

> The pretension advanced by Mr. Madison, that the American flag should protect every individual sailing under it on board merchant ships is so extravagant as to require no serious consideration.

Admiral Mahan in his *Sea Power in Its Relations to the War of 1812*, gives a most interesting discussion of the

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claim of the right of visitation and search and impressment which was the cause upon which the War of 1812 was actually waged. He demonstrates the practical impossibility of an abandonment of this claim by Great Britain at the time when she was engaged in a struggle for life against the power of Europe under Napoleon, and when she was following the practice which had theretofore not been questioned.

The opinions of these two eminent authorities show that Great Britain had a strong case in the exercise of the right of impressment of British seamen, when their presence on board of American merchant ships was disclosed by the visitation and search which she had concededly a right to effect during war-time, in order to determine the nationality of the vessel visited and the character of her cargo. Admiral Mahan reminds us that the acute character of the question arose from the new condition which came about in the world when another nation came into existence, of people of the same race and speaking the same language as those of the greatest existing maritime nation, whose interests were most strongly bound up with the question of allegiance of her maritime subjects. Up to that time the probability of making mistakes in the impressment of alleged British subjects was negligible, and the right of impressment had probably rarely been exercised. When the new state of affairs came into existence the old practice was found to possess disadvantages theretofore unsuspected, but there was no law-making process or authority by which the practice could have been forbidden, and the nation profiting by it had as much right, if not a great deal more, to adhere to it, as the new nation, adversely affected, had to object to it.

Conceding General Foster's position that the subject of impressment was one quite within the scope of international law and practice, I cannot understand his argument otherwise than as indicating that if the case had been judicially settled in accordance with international law and practice it must have gone against the United States. It is true that the war did not settle it, because we lost out in the war, and were in no position to claim our contention at the treaty of peace; but the practice ended by reason of the termination of the war between Great Britain and Continental Europe, and the question ceased, for the time being, to be an acute one. It, however, merged into the question of the right of

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visitation and search in time of peace, by reason of the efforts of Great Britain to suppress the slave-trade, and this right was not formally given up by Great Britain until as late as 1860. I do not see how it can be contested that the result was brought about through force, at first unsuccessfully exerted, but even thus demonstrated to be a process which the United States was willing to resort to.

In the light of recent events it is interesting to recall that the Mexican War is generally acknowledged as one in which the cause of the United States is most difficult of defense. Questions of boundary in new countries, where the geography was unknown at the time when the people of the two countries contesting about the boundary first commenced to occupy the disputed region, are bound to be attended with much difficulty. General Foster holds that the movement of American troops into that territory, while the boundary question was still under discussion, was an overt act of aggression which naturally brought on the war. It is not altogether easy to admit this, since there is lack of apparent necessity for the attack on these United States troops in the disputed territory, and their presence there need not have caused the termination of negotiations. There was plenty of other territory into which Mexican troops might have been similarly moved. But can anybody maintain that it is a pity that Colorado, Utah, California, etc., are not now in the condition of Chihuahua, Sonora, and Durango? Selfishly speaking, the United States is, of course, incomparably the gainer in the possession of the rich country acquired by the war which, including the purchase price of the ceded territory, cost less than one hundred million dollars. The inhabitants of the acquired territory, both those who were in it at the time of the dispute and those who have since settled there, have reason to thank Heaven that the change of nationality occurred; while the world at large, being able to engage in relations with a part of the United States instead of being condemned, with regard to this acquired territory, to such as are now prevailing between the rest of the world and Mexico, must necessarily be heartily congratulated. The only unfortunates would appear to be those in control of the central government of Mexico, and of these persons the principal grievance would seem to be that, having at that time been deprived of the power of exploiting the inhabitants of the ceded territory, they now have, in the restricted area in

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revolt, a less dignified adversary to yield to, in case they shall finally be compelled by the northern revolutionists to relinquish their control, than they would have had if the ceded territory had been left to join the revolt against them.

The contention is not for the settlement of questions irrespective of their real merits, and questions of boundary are such as to almost universally lend themselves to judicial settlement; but it is contended that the method of judicial settlement is one in need of explanation when it can be made to appear so clearly that, as in the case of the Mexican War, the failure to resort to it, and the settlement of that question by the process of war, produced a result which must be universally regarded as one which it would be extremely unfortunate to have lost. The incident certainly raises a suspicion that the principles which must guide in judicial settlement of international disputes are subject to grave error, and that in the absence of the possibility of correcting them by other means the international lawmaking process of war is oftentimes the very best that can be resorted to.

Now take the familiar case of our Civil War, the greatest in our history, which also was a war not between nations, but, like the Revolutionary War, between such considerable and such distinctly separated communities that it can be considered as a war between nations for the purposes of this discussion. Its inspiring cause, the extension of slavery, and its immediate cause, the exercise of the right of secession, lend themselves easily to an examination with reference to the outcome of a judicial settlement. The first-named cause was submitted to such a settlement in the Dred Scott case, in which the Supreme Court held that slaves were property and as such could be carried into the new territory of the United States, to be there entitled to its protection. This judicial settlement must be accepted as according to the law as it then existed. Of course, the whole world now concedes that it was not in accordance with right, but that, as distinct from the lawful aspect of the case, it was not within the province of the court to determine. Equally certain was it that in the existing state of affairs the law could not have been changed by the usual process.

As to the right of secession, as a question before a court, the right was certainly doubtful. Mr. Charles Francis Adams, thoroughly identified with the Northern cause, has more than once stated that the question was not determined

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at the time of the formation of this Government, and that the quality of legal right could be claimed by either party to the contest. The Hon. Henry Cabot Lodge has said that at the time of the formation of the Government, and for a considerable time afterward, the right of secession was not only generally considered to exist, but also to be a right that would, in all probability, be exercised. Under these circumstances, how would the different fundamental questions of the dispute have lent themselves to judicial settlement? If the Supreme Court was right, the judicial settlement would probably have been different from that which was brought about by the war; and if the views of these distinguished gentlemen were right, it is at least entirely uncertain that the judicial settlement would have determined the right of secession in the same manner as did the sword. Those of us who are well pleased with the result that was attained as to secession, and those of us who would have been dissatisfied with the continuance of the opposite result as to slavery, have reason to congratulate ourselves that the questions of the Civil War received a military instead of a judicial settlement.

The object of the last war which the country has waged was to terminate the sovereignty of Spain in Cuba, for reasons which are set forth in the preamble to the Resolution of Congress of April 20, 1898, as "abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders," which are said to "have shocked the moral sense of the people of the United States, to have been a disgrace to civilization," etc. The deliberate conclusion of this country that Spain's sovereignty there must be terminated, it is apparent, could not have been granted by any judicial tribunal. The sovereignty of Spain in Cuba was as firmly established as anything in international law, and without a change in such law it could be terminated only by some such revolutionary process as that of war.

There are classes of cases which lend themselves unmistakably to judicial settlement; but there are others which distinctly do not, for the reason that the law and the precedent and the established order, being human made, are subject to error, and in the course of the progress of the world are therefore likely, at a given moment, not to accord with the conditions as they exist; in

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such cases there arises a demand for a change, and if the change is resisted by a nation whose interests are bound up in the wrong order, the change must be brought about by the process of war. The judicial process, being held bound to the very principles which are claimed to have been outgrown, cannot effect the revolution which is demanded, and which must be brought about by some kind of a lawmaking process laying down new principles.

Processes of delay and the agreements which lead to them can do no harm, and should probably be encouraged; but it is easy to place more reliance upon them than the facts of history justify. When at the First International Peace Conference at The Hague, in 1899, it became apparent that the nations engaged in the conference were not going to bind themselves by a hard-and-fast agreement to submit contentions to arbitration, various forms of moral pressure, looking to the use of arbitral methods, were resorted to and embodied in the convention for the peaceful settlement of international disputes, which were adopted by that Conference. The most prominent of these was Article XXVII., which states:

> The Signatory Powers consider it their duty, in case a serious dispute threatens to break out between two or more of them, to remind these latter that the permanent Court of Arbitration is open to them. . . .

How woefully this article failed of its object is appreciated by reference to the fact that since the adoption of the convention three wars have occurred—namely, the South-African War, the Russo-Japanese War, and the Balkan War—and with regard to not one of them did the Signatory Powers of the Convention think it worth while to remind the parties in dispute that the Court of Arbitration was open to them. It is perfectly evident that an appeal to the Court would never have served the purpose of the disputants in any case, and therefore the duty imposed by the article was completely and sensibly neglected. There may be in the future, as in the past, wars which result from temporary irritation, from hasty action, which the various processes of delay which form the subject of present negotiations between nations may be of service in softening; but wars for great principles are not of this class, and there does not seem to be any suggestion before the world which offers a reasonable guarantee for doing away with them.

WILLIAM CROZIER.

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THE CRUX OF THE IMMIGRATION QUESTION

BY THE HONORABLE A. PIATT ANDREW

THE subject of immigration we have always with us in this country. It has been a topic of contentious interest and legislation almost continuously since the first Englishman set foot in the Western World. The Pilgrims and Puritans of Massachusetts Bay were scarcely settled in their log huts before they began planning a policy of exclusion, and already in 1637 they voted to keep out those who were not members of their own religious sect. So in the very earliest decades of the English settlement, immigration began to be restricted, and Quakers and Baptists, Episcopalians and Catholics, were banished and proscribed from the Commonwealth on the ground that American standards were apt to be impaired by their admission. From that day to this the older immigrants and their descendants have tried to keep this country for those already here and their kindred folk. They have looked upon themselves as a kind of aristocracy, their supposed superiority being proportioned to the length of time that they and their ancestors have lived upon this continent, and each successive generation of immigrants newly arrived has tended with curious repetition to adopt the same viewpoint, to believe that the succeeding immigrants were inferior to the former in religion, habits, education, or what not, and ought to be kept out. Then for more than a hundred years a further motive for exclusion has found constant iteration. Each generation has been taught to believe that the country was rapidly filling to the brim, and that on that account also the doors of entry ought to be closed.

In the very first decade of our Federal Government, in 1797, when the first Alien Act was under consideration, we

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find passages in the records of Congress which sound much like the utterances of certain Congressmen in 1914:

When the country, said Otis (in 1797), was new it may have been good policy to admit all. But it is so no longer. A bar should be placed against the admittance of those restless people who cannot be tranquil and happy at home. We do not want a vast horde of wild Irishmen let loose upon us. (McMasters' *History of the People of the United States,* Vol. II., page 332.)

Passage after passage of similar tenor could be cited from every subsequent decade, but I shall only quote one or two examples, beginning with a report made in 1819 by the Managers of the Society for the Prevention of Pauperism in the City of New York. In this report of nearly a hundred years ago the fear is expressed that through immigration

pauperism threatens us with the most overwhelming consequences. . . . The present state of Europe contributes in a thousand ways to foster increasing immigration to the United States. . . . An almost innumerable population beyond the ocean is out of employment. . . . This country is the resort of vast numbers of these needy and wretched beings. . . . They are frequently found destitute in our streets: they seek employment at our doors: they are found in our almshouses and in our hospitals: they are found at the bar of our criminal tribunals, in our bridewell and our penitentiary and our State prison. (*Reports of the Industrial Commission,* Vol. XV., page 449.)

This was in 1819. Coming down another score of years, we find the next generation once more extolling the immigration up to its own time, but once more greatly perturbed by the supposedly inferior character of the immigrants then beginning to come. In a paper published in 1835, entitled "Imminent Dangers to the Institutions of the United States through Foreign Immigration," we read that formerly

our accessions of immigration were real accessions of strength from the ranks of the learned and the good, from enlightened mechanic and artisan and intelligent husbandmen. Now immigration is the accession of weakness, from the ignorant and vicious, or the priest-ridden slaves of Ireland and Germany, or the outcast tenants of the poorhouses and prisons of Europe. (*Hearings before the Committee on Immigration, Sixty-first Congress,* page 327.)

In the course of the twenty years that followed came the great increase of Irish immigrants during the famine in Ireland, and then again many Americans became panic-stricken at the thought of the possible consequences. A great secret order and a new political party, the so-called

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Know-Nothings, were organized to overcome the dire results that were apprehended. The abject squalor and wretchedness to which these Irish immigrants had for generations been accustomed, it was urged, could not but result in the degradation of American standards, and many seemed to fear that on account of their religion the immigrants would try to overthrow our democratic government and establish an ecclesiastic hierarchy in its stead. Feeling in some places was so bitter that the immigrants were mobbed in the streets, their churches were desecrated, and their children were persecuted in the public schools. One could spend hours reading passages from speeches and pamphlets of this period denouncing the Irish immigration.

Yet the American government still lives and, notwithstanding the abject condition of these Irish settlers and the fears and apprehensions which they aroused, we have absorbed and assimilated some four millions of them and no one has yet observed any deterioration of American standards and ideals in consequence. We and they have flourished and prospered, and we reckon their descendants among our best citizens. The names of many of them are daily on our lips and before our eyes in the head-lines, for they are our political magnates, our aldermen and mayors and governors.

Passing on to the next generation, during the later seventies and early eighties came a great migration of Germans and Scandinavians, and once more racial prejudice found a new objective. The previous immigrants had for the most part spoken our language, were akin, it was said, to our original stock and familiar with our traditions, but the new immigrants, ignorant of English and with different modes of thought and practice, were held to be unassimilable and to menace our standards and institutions. The apprehension was so great and the objection became so general as to induce in 1882 the first general immigration law. Nevertheless, we have absorbed over four million Germans and over two million Swedes and Norwegians, and to-day we count no more valuable factors in our national stock than their descendants.

But once again the racial currents shifted, and during the last fifteen years new vast streams have flowed to this country from Russia, Italy, and Austria-Hungary, and new smaller streams from Portugal and from Greece, Rumania,

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and other parts of Eastern Europe. During 1913 Russia, Italy, and Austria-Hungary offered each nearly a quarter of the year's total inflow. So once again the familiar clamor of alarm has been turned in another direction. It is now admitted that the millions of Irish and Germans and Scandinavians who have come into the country have been absorbed without any degradation of our standards, that they have rendered invaluable service in developing the country, and that the earlier fears have proven groundless. But it is said that the new immigrant is of a type radically less desirable than that of the earlier periods, and once more we hear the warning that the situation to-day is different in that the country is now thickly settled and land and opportunities are no longer available. As I recall the similar assertions and fears of earlier periods I must confess that I sympathize with the gentleman from Missouri who expressed a desire to have some evidence submitted. It looks as if in the eyes of some Americans the only good immigrants were the dead immigrants, and that the only opportunities for the country's development lay in the past. I want to know and you want to know in what sense the immigrants of to-day are thought to be inferior to those who preceded them, and on what grounds it is claimed that the country has reached the limit of profitable increase in population.

Are the new immigrants less sound of body and mind than those of earlier generations? Do they more frequently evince criminal proclivities? Are they more apt to become a charge upon the State? Is their standard of living lower? Are they less capable of becoming loyal, worthy American citizens? We may well inquire what the Immigration Commission, with their exhaustive investigations published in forty-one volumes, have to say in answer to these questions, and in this connection we may also turn to the volume upon *The Immigration Problem* prepared by Professors Jenks and Lauck, the reputed authors of the Immigration Commission Report, which summarizes the data and conclusions of the Commission.

Are the new immigrants wanting in bodily vigor and health? The authors of the Immigration Commission Report deny this.

Our later immigration laws have forbidden the entrance of those afflicted with any loathsome or contagious disease,

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or of those in such a condition of health as is likely to make them become a public charge. Under these laws, too, the steamship companies are held responsible and are compelled to return free of charge passengers rejected by our immigration officials, and in the case of the insane or diseased they are fined in addition one hundred dollars for each such passenger brought to this country. This legislation has brought about a very great change in the matter of inspection and exclusion, and the representatives of the Immigration Commission declare that

> the careful inspection abroad, sometimes by representatives of the United States Government, otherwise by inspectors of the steamship companies, and the final examination at the port of entry, have brought about the result that with very rare exceptions every immigrant admitted to this country is now in good health, and is not bringing with him the germs of any disease that might prove detrimental. (Jenks and Lauck, page 28.)

And they add that

> as far as one can judge from the records kept, the races of the recent immigration, those from Southern and Eastern Europe, are not so subject to diseases that seem to be allied with moral weaknesses as some of those of the older immigration races. (Jenks and Lauck, page 47.)

Are the new immigrants more addicted to crime? Again the authors of the Immigration Commission Report assert that there is no proof of this.

> No satisfactory evidence has yet been produced to show that immigration has resulted in an increase in crime disproportionate to the increase in the adult population. Such comparable statistics of crime and population as it has been possible to obtain indicate that immigrants are less prone to commit crime than are native Americans. (*Reports of the United States Immigration Commission,* Vol. XXXVI., page 1.)

Are the new immigrants more likely to become charges upon the community? The authors of the Immigration Commission Report declare the contrary.

> The Immigration Commission, with the assistance of the Associated Charities in forty-three cities, including practically all the large centers excepting New York, reached the conclusion that only a very small percentage of the immigrants now arriving apply for relief. (Jenks and Lauck, page 50.)

Is the standard of living of the new immigrants lower than that of the old? Any one who has read the contem-

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porary descriptions of the living conditions of the Irish and German immigrants in the periods from 1840 to 1880 will hesitate to believe that the standard of living of the immigrants of our day is lower than the standard of living of the immigrants in the earlier period. Nothing could be more pitiful and depressing than the pictures of the poverty and wretchedness of the Irish settlers at the time of the great migration from Ireland. The majority of the Irish people for centuries had been forced to live in hovels with only the barest necessities in the way of furniture and clothing, and many of the thousands who came to this country were in serious danger of actual starvation if they remained at home. The authors of the Immigration Commission Report state that "practically none of our immigrants of the present day are in such a condition" (Jenks and Lauck, page 12).

In a very few years, with our free and compulsory schools, our free libraries, and the economic opportunities which this country has to offer, these people were transformed into ambitious, self-respecting, public-spirited citizens. And so it is with the Italians and Poles, the Russian Jews, and other poor immigrants of more recent times. They are often very poor in this world's goods when they enter our gates. One sees the mothers coming in with shawls in place of hats, often without shoes or stockings, and with all their worldly belongings in a rough box or tied in a single handkerchief. But it is one of the miraculous phases of our history how quickly we are able to transform, enrich, and absorb them. A few years later one sees the children of these same immigrants well dressed and ambitious, well educated, and literally undistinguishable in manners, morals, or appearance from the descendants of those who came over in the *Mayflower*. Such is the Aladdin-like power of the great American melting-pot.

It is easy to echo the cry of prejudice if you happen to be of Anglo-Saxon descent, and to assume an air of superiority and denounce the Italians, Greeks, Poles, Bohemians, and Russian Jews, as if they ranked somewhere between man and the beast, but were not yet wholly human. The same intolerant attitude of mind among the Anglo-Saxon Puritan settlers of early colonial days led to the whipping, imprisonment, banishment, and even hanging of Quakers and others of unlike religious beliefs. If you share these prejudices

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to-day, walk some Sunday afternoon through the galleries of the art-museums in our large cities and note who are the people most interested in their treasures; inquire at the public libraries who are their most appreciative patrons; visit the night schools and observe who constitute their most eager classes; study the lineage of the ranking students in our universities and you will find that our libraries, art-galleries, universities, and schools often find their best patrons among the offspring of these despised races of Southern and Eastern Europe. Or if you seek your information in books, I would commend you to authorities who have studied the new immigrants at first-hand. If you will examine the volume on *The Italian in America,* by Messrs. Lord, Trenor, and Barrows, you will be reminded of what America owes to the Italians from Columbus down to our own day. And if you will read the study of *Our Slavic Fellow-Citizen,* by Dr. Balch, you will be reminded of what we owe to the Poles and Bohemians from the time of Pulaski and Kosciuszko down to our time. And if you will read the story of *The Promised Land* and *They Who Knock at Our Gates,* by Mary Antin, you will find descriptions of what we may expect from the Russian Jews. Incidentally you will also discover that the traditions and heroes of American history find their most ardent admirers to-day among these same people who but recently were aliens.

There is no evidence that the newer immigrants are inferior to the old. It is only the recurrence of a groundless prejudice which makes some people feel so. But even if the new immigration is not inferior in character to the old, we have still to ask whether there is not a menace in the very numbers of the immigrants now coming in. We hear a great deal these days about the alarming increase in immigration. We are told that more than a million foreign-born are coming into this country every year, that the number is increasing as never before, and that the country cannot absorb so great an influx. What are the facts in this regard?

As to the amount of recent immigration, the tide ebbs and flows with the alternating advances and recessions of business, and the tendency is for each successive wave to reach a higher level than its predecessors. In 1854 a record of 428,000 arrivals was established; then there was a great recession, and in 1873 a new high level of 460,000 was

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reached. The next wave culminated in 1882 with 789,000, and in 1907 the highest of all immigrant records was reached, 1,285,000. During the last ten years the average number of immigrants arriving in this country has not fallen much short of a million per year, and this figure considered by itself does look portentous. One must bear in mind, however, that it represents only one side of the ledger and is subject to very heavy deductions. If you are reckoning the extent to which your property has increased during a given period, it does not suffice merely to count up the income. You must also deduct the outgo. And if you are reckoning the actual addition to our population which results from immigration, if you would have in mind the actual number of immigrants that we have had to absorb, you must take account of both sides of the ledger, of the outgo as well as of the income. During the last six years the number of departing aliens has been carefully collated, and it appears that from 400,000 to 700,000 aliens depart from the United States every year. This leaves a net balance of arriving aliens of only about 550,000 per year, or only about one-half of the total that is commonly cited as representing the annual influx. Even this figure may look precarious, however, until we have considered it in its appropriate relations and comparisons.

The capacity of the country to assimilate the incoming thousands without any serious modification of our institutions or standards depends in part upon two conditions: first, upon the proportion which the aliens bear to the resident population by which they are to be absorbed, and, second, upon whether the country is already approaching the saturation point as regards the density of its population. Now the proportion of foreign-born in our total population has not varied much in recent decades,* and even in the record year of 1907 the percentage of immigrants to population was lower than it has been on several other occasions during the past sixty years. As compared with the population of the country the immigration of recent years has not bulked as large as the immigration of the early

* PERCENTAGE OF FOREIGN-BORN IN TOTAL POPULATION.

1860	13.2	1890	14.7
1870	14.4	1900	13.6
1880	13.3	1910	14.7

(Thirteenth Census of the United States. Abstract, page 80.)

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fifties,* and if we consider only the net immigration, it makes to-day an addition to the total population of the country of only a little more than one-half of one per cent. per year.

Nor need one fear that we are reaching the point in this country where population presses upon the means of subsistence. The number of our people will have to be multiplied sixfold to equal the density of the population of France, to be multiplied tenfold to equal that of Germany or that of Italy, and to be multiplied eighteenfold to equal that of England. If the present population of the whole United States were located in the State of Texas alone, there would still not be two-thirds as many inhabitants per square mile in that State as there are to-day in England. One must, indeed, have little faith in the future of the United States who, in the face of such comparisons, believes that the population of this country as a whole is approaching the saturation point, or that from the standpoint of the country as a whole we need be terrified by the dimensions of present immigration. It amounts in annual net to little more than one-half of one per cent. of our present population, and that population will have to increase many hundred per cent. before we have reached a density remotely approaching that of any of the leading countries of Europe.

There will, of course, always be timid Americans who will wonder how we can possibly hope to assimilate foreigners to the extent of as much as one-half of one per cent. of our population per year and who would prefer to see the country relatively weak and undeveloped than run the risk of continuing the experiment. When Jefferson proposed to purchase all of the great territory west of the Mississippi known as Louisiana, the citizens of Boston organized a public meeting to protest against the project. They thought it would destroy the relative influence of New England in the country's affairs, and they thought that the United States could not assimilate so vast a territory; and though their fears have been proven not only groundless but absurd by subsequent history, there are many still in Boston and elsewhere in the country who feel that our powers of assimila-

* PERCENTAGE OF INCREASE OF FOREIGN-BORN DECENNIALLY

1850–1860.....84.4	1880–1890.....38.5
1860–1870.....34.5	1890–1900.....11.8
1870–1880.....20.0	1900–1910.....30.7

(Thirteenth Census of the United States. Abstract, page 80.)

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tion have now reached their limit of capacity and ought not to be further taxed.

There will, of course, always be Americans absorbed in history and genealogy who will sigh for the good old days when America was only a sparsely settled fringe of seaboard States, and who will wish that the population of the country might still consist of the Sons and Daughters of the Revolution, the Colonial Dames, and the Sons of Colonial Wars. This might, indeed, have been a pleasant condition from certain points of view, but of one thing we may be certain: this country to-day would not be settled from coast to coast; our cities would not be a fifth of their present size; our powers as a nation and our prosperity as individuals would only have been a fraction of what they are had immigration been prevented.

Suppose, however, that we were to grant that the alien influx at the present time is of precarious character and dimensions, and that a policy of exclusion is desirable. It goes without saying that the policy should be framed along rational lines. The test for admission to the country must be one which will separate what we don't want from what we want. It would be preposterous for a doctor to say to an individual patient, "You are suffering from cancer, but we have no cure for that, so we will give you some of this remedy for tuberculosis." Yet this is exactly the kind of murky argument which the advocates of the literacy test proclaim. They say what is perfectly true, that certain classes of our immigrants are unassimilable and detrimental to our standards of American life and thought, and then they say "we don't know of any test which we could get through Congress which would exclude these undesirables selectively, so we propose to take a pot-shot and exclude those who cannot read."

Such a test is meaningless, unwise, and contrary to the spirit in which our Government was founded. It is meaningless because it would not exclude our most dangerous immigrants. It would not exclude anarchists. It would not exclude people of bad character, the vicious or the incompetent. Sing-Sing is filled with men who can read and write, and the most unassimilable anarchists in the country can read in several languages. The literacy test is unwise because it would exclude many of those who by character, vigor, and intelligence are destined to become worthy and

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useful citizens. Above all, the literacy test flies in the face of the spirit of our whole history. For nearly three centuries the United States has offered a refuge for those who were oppressed by injustice and who lacked opportunity in the lands across the sea. In colonial days it was the refuge from persecution of the Pilgrim, the Quaker, and the Huguenot, and in later times it has been the refuge from injustice of the Poles, the Germans, and the Irish. In more recent times it has been the asylum for persecuted Russian Jews, for Italians, oppressed by an unjust land system in their own country, and for Hungarians, Armenians, and others who have been hampered by inequitable economic and political conditions in their respective countries.

I cannot believe that without the strongest reasons we should now depart from these time-honored traditions, and close the doors of entry to many of these people, merely because they have never had the advantage of the schools. There is abundant evidence that many of the English immigrants who came here in the hallowed colonial days, and whose descendants constitute what is conventionally regarded as our most superior stock, were unable to read and write. It is also generally admitted that the proportion of illiteracy among the immigrants of to-day is growing less with each succeeding decade. (Hall, *Immigration,* page 143.) Moreover, such illiteracy as exists is only an ephemeral disadvantage which disappears almost completely in the second generation. Illiterate immigrants are the more anxious, because of the handicap of ignorance from which they themselves have suffered, to make sure that their children take advantage of our schools, so that as Mr. Claxton, the Commissioner of Education, has recently reported, the least illiteracy in the country to-day is to be found among the children of immigrants. The proportion of illiteracy, he says, on the basis of a careful statistical inquiry, is three times as great among the children of native-born parents as among the native-born children of foreign parents.

In the face of such traditions, such conditions, and such evidence, we may well agree with President Cleveland and President Taft, who both refused to indorse the literacy test submitted to them by Congress, and we may also agree with President Wilson, who not long ago expressed the hope that the time will never come when America will not be proud to open her gates to those who love liberty and seek oppor-

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tunity. Those who glory in the fact that their forefathers "came over in the *Mayflower*" in search of freedom and opportunity certainly ought not to overlook the closer fact that there are still hundreds of thousands in the Old World who have similar aspirations to whom in Mary Antin's words "Ellis Island is their Plymouth Rock."

I have spoken of only one aspect of immigration, the proposals to further restrict it, and I have tried to show why these proposals seem unjustified and unwise. The phases of the immigration problem which most urgently require consideration on the part of Congress and of the legislatures of some of our States have to do not with exclusion and restriction, which, except as to certain matters of detail, have already been abundantly dealt with by the law, but rather with the distribution and assimilation of our immigrants.

While it is true that the greater part of the country is still thinly settled, it is also true that some eastern seaboard States bordering on the ports of entry are very thickly settled. Massachusetts in particular has a density of population thirteen times that of the country as a whole, and greater than that of any European country except England. So while immigration has not reached dimensions that can be regarded as precarious for the country as a whole, there is serious ground for apprehension when the new immigrants congregate in Massachusetts and other densely populated States, and especially if, as sometimes happens, they settle in the more congested sections of those States. Unfortunately, too, there is an inevitable tendency for immigrants, in the absence of any counteracting governmental agencies, to concentrate in just this way. Although in most cases they have left their original homes in order to better their economic conditions, it is practically impossible for them to know, when newly arrived in this country, in what sections and in what occupations they are likely to be most needed and most highly paid. Without competent guidance, no matter what their previous experience and aptitudes may have been, their natural tendency is to gravitate toward the places and businesses in which their brothers and cousins and friends are already located. Over 387,000, or virtually one-third, of the foreigners who came to this country last year had been farmers or farm laborers in the lands of their birth, and most of them would probably have chosen to continue in the occupation with which they were familiar

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had they known of favorable opportunities. Yet in all likelihood only a small fraction of this vast number of sturdy peasants found their way to the farms, and by far the larger share are probably located to-day in the manufacturing centers of the older States because they did not know where else to go. This is indeed a very serious phase of immigration with which our legislatures, Federal and State, must cope. The throngs of new laborers who are coming to this country must be diverted from the congested centers where labor is redundant to the regions where the labor supply is short, and this can only be accomplished by a systematic governmental agency organized for the purpose. There should, I believe, be created, in connection with the Department of Labor, something in the nature of a Federal employment bureau, with branch offices in all of the States, to collect and disseminate information regarding opportunities and the demand and supply of labor throughout the country. Such a bureau should co-operate with the State and municipal bureaus of employment wherever such exist, and with the agricultural departments of the several States, and should act as a central clearing-house for all of these agencies. The time has now come when our Government must assume the responsibility of systematically finding employment and of promoting the proper distribution of labor. And the State governments must co-operate with the Federal Government in this undertaking. State bureaus of employment with labor exchanges in every community must be established, or where they now exist in rudimentary and ineffective form they must be developed.

Our problem is not how we can exclude, but how we can effectively distribute those who are coming to us. We need and can use in America all of the strong and healthy helpers who care to come. We need their help in developing the almost boundless resources of this great country, but at the same time we must protect those who come and those who are already here from excessive concentration in the older and more densely populated communities whose resources are limited and whose opportunities are already sufficiently exploited. This is the primary and urgent question in connection with immigration which confronts us to-day, and its solution demands from every Senator and Congressman not rhetoric and prejudiced appeal, but common sense.

A. Piatt Andrew.

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A NEW SPIRIT IN PARTY ORGANIZATION

BY FRANCES A. KELLOR

Politics in America had become a question of nominations and elections. Patronage was the key to success, and power the handmaiden of the boss. Party lines were drawn, not by issues and policies laid down in platforms to be carried out, but by men who controlled conventions and competed for office. A campaign was impossible without a candidate and a platform impracticable except as a door to a vacant office.

It is now evident that any party which wishes to retain the confidence of the people and have their support at the polls must do something besides mark time between elections, assail rival organizations, nominate and elect candidates, and formulate platforms which are not intended to be programmes. It is evident that to accomplish this there must be a change in political methods which must begin with the party if its representatives in office are to carry out its will intelligently.

There is a growing belief that political parties have been leaving a vital part of their responsibility to volunteer organizations; that, while the power of political parties has increased, their responsibility, efficiency, and integrity have decreased.

A first step in this direction is the assembling of correct information. Men and women the country over are demanding information. They are insisting upon publicity. The enactment of laws governing campaign funds and the reaction against secret contributions are ample proof of this. Lessening the hours of work has released time and energy which a party can well utilize and which now expresses itself in citizens' committees, civic clubs, welfare organizations,

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denoting an interest and progress woven largely out of margins of time and from surplus energy not needed in the struggle for existence. Women, freed by invention and science and social progress, have leisure, thought, and effort to put into governmental housekeeping in which they are taking a vital interest. Investments in human welfare have never been so generous as now, as the multiplicity of philanthropies indicates.

The question naturally arises—should not this new spirit of helpfulness and this surplus of energy and of resource be brought into party organization? Why should the party, the administrator, and the State depend so largely upon the initiative and recommendations of the voluntary efforts of social-welfare organizations and of benevolent individuals? Why should they not have their own laboratories for ascertaining facts, and their own dynamos for setting the current of public opinion? To an ever-increasing extent government has these in its public offices. But parties, from which these offices are filled, have not hitherto thought this essential or practical. When their representatives were not in power they have spent but little time drilling their army of voters and of potential officeholders and in stimulating the public opinion necessary to make their ideals and ideas effective when they come into power.

National and State laws define and regulate party organization and duties. The party thereby assumes the responsibility of naming public officers and of formulating their policies through platforms, and of directing their activities through the distribution of patronage to its members. It is, in reality, invisible government in the highest sense of that term. The time has, therefore, come to ask whether parties are performing all of the tasks which go with these high and responsible functions.

In addition to managing the routine of public office, social welfare is an increasingly important matter in both administration and legislation. Economic questions are the paramount ones before the country to-day. Industrial conditions are the subject of wide-spread investigation and discussion. The administration of justice in our courts is becoming the personal interest of every layman.

Now the general laboratories in which information is gathered and in which experiments are made in these fields are in the schools and universities, where men and women

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are trained, and in the thousands of organizations devoted to investigations and social experiments and to relieving the results of the operations of our social and industrial system. Government is only beginning to perfect its laboratory. The idea that enforcement of law and business management of departments is not the whole of the public business is giving way to commissions which are investigating, formulating, and planning future work. The most significant illustration of this was the creation of the Federal Department of Labor, embodying the labor and immigration provisions of the Department of Commerce and Labor, but requiring the new department to investigate and report a year later a plan of final organization. At the same time there was created the Industrial Relations Commission based upon data and the agitation of men and women outside of government ranks. The political party has little connection with these institutions and organizations, except as they voluntarily appeal to it for action. There has consequently grown up the belief that non-partisan activities are more desirable, more honest, more worthy of broad support, and are of more benefit to society in general than are partisan activities. This results in divorcing the power of the party from its responsibility to the people. The party in power conducts its affairs without reference to non-partisan organizations, often doing work already done or ignoring their recommendations because they are reformers and therefore outside the pale of "regular" politics. In two recent instances bodies of social workers have held conferences, at their own request, with elected officials of high standing and power in the present Administration, and have made valuable recommendations, designed to save the State and country thousands of dollars. In neither case have these disinterested experts been called into consultation, nor have they been asked to submit specific recommendations. Had these recommendations come from a National committee or a State committee, which hold in their hands the power of renomination, the result, I venture to say, would have been wholly different. In fact, some members of these non-partisan bodies, who are also active party workers, have had their recommendations acted upon, but from a partisan standpoint.

The problems confronting the legislator and the adminis-

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trator are increasingly complex. Both are in office too short a time to become experts in any of the fields requiring their attention. The philanthropic organizations are uncorrelated and highly specialized. There are few national philanthropic bodies equipped to deal with matters of national interest (with a few exceptions, notably, such as child labor). The officeholder, genuinely in earnest in his work, must, perforce, appeal to different and wide-spread organizations on different subjects, and in some cases they do not exist at all. Furthermore, in the important matter of appointments, these organizations exercise but small influence in proportion to their resources, and in many of them there is distinct opposition to this form of activity. These organizations, partly because of their fear of politics, because of their belief that in non-partisanship lies their strength, because of differences of political opinion among their directors, can be of little value in campaigns. One result is that contributors to these organizations are required to give to campaign funds to duplicate work, such as furnishing speakers and publishing literature often of an inferior sort when the material for these exists in these institutions.

Social-welfare organizations are tending in the direction of great multiplicity, elaboration, and increasing expense and duplication. We now set a society or citizens committee at considerable cost to watch a department, and call it, by courtesy, co-operation. This method is giving way to the official advisory board of citizens *serving* with power and responsibility.

Probably the most important matter before government to-day next to social and industrial justice is efficient, economical administration. In this the State can learn little from social-welfare organizations other than bureaus of municipal research (which are laboratories and will soon be an organic part of municipal administration). It is, therefore, increasingly important that the party which makes economy its war-cry should have the laboratory to carry on the war to success.

It is perfectly clear to the public administrator that philanthropic organizations, even granting his ability to locate and use them, are inadequate for his purposes. They do not effectively compete, as at present organized, with party influence. They are not an organic part of the new political organization, and probably will be most effective if they do

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not become so. The departments upon which he may call are not equipped to give him adequate assistance; they are manned by men rewarded as a political favor whom he cannot trust, and the scientific spirit of inquiry does not yet prevail. Twenty-one States have legislative reference divisions, but of these only about five are well organized and properly financed.

It would seem that the party organization of the future must necessarily include two correlated fields—each indispensable to the other. The first will be, as now, defined by statute law and will deal with campaigns and elections, comprising a more or less uniform number of mechanical details, and will be largely supported by State funds and taxation. This field will be characterized by a restriction of powers. The direct primary, the abolition of conventions, fusion in municipal affairs, the commission form of government and similar movements are making the party less powerful. If the party is to survive as an instrument of power and as a means of expressing the will of the people there must be an expansion elsewhere. The second field will be defined by scientific laws and will consist of a party laboratory, manned by experts. Social research will be its method and it will constitute a general clearing-house for information, as well as a power for the most intelligent and courageous governmental action. This work will be supported by contributions or assessments. No party can much longer delay a reorganization to include the application of such scientific principles. It is this second and as yet comparatively undeveloped phase of party organization with which we are here primarily concerned.

Political science hereby assumes an importance which makes it necessary to emphasize its essential characteristics, and becomes inseparable from the social sciences. To be effective, a political laboratory must be as scientific, as thorough, as dispassionate in its personnel, methods, and findings as are the laboratories of other sciences. It must be free from political influences as these are generally understood, and yet advance the party as the vehicle for accomplishing its ends. Its scope is necessarily the party platform. To cover the whole range of social and economic life without some such limitation would result in as much chaos as to combine biological, physical, and metaphysical sciences.

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Social research is the observing and recording of social relations of mankind, and is concerned with the enumeration and determination of their various manifestations. It pursues with regard to social relations the same kind of inquiry that mathematical inquiries pursue with regard to numbers, quantity, and space, and the physical sciences pursue with regard to matter and its manifestations, substituting for their subject-matter the thoughts, feelings, and activities of mankind. The fact that at present it is little more than a mass of disorganized, numberless, separate investigations, which have little correlation with lawmaking bodies or the needs of the public, need not discourage us.

The subject-matter of social research—thought, feeling, and action of mankind—is infinitely more complicated than that of the natural sciences. Matter and its properties have no sentiments, no reputations, no honor, no aspirations, no temptations, virtues or vices, or families to be considered. If matter is consumed in the process of an experiment or changed into some other form or converted into other uses, no great harm has been done and great benefit to progress may result. The reaction of the various properties of matter to stimuli entails no consequences comparable to those resulting from the response of feeling, thinking human beings.

Notwithstanding the difficulties presented, the four essential principles of all research, the discovery of truth being its main object, are applicable to the political field, and include sequence, accuracy, impartiality, and dispassionateness. These prevail in the scientific world, by diligent, laborious, continuous, and systematic inquiry made by trained persons whose remuneration does not depend on the character of the results obtained.

In social research, statistics occupy much the same place that mathematics do in the various sciences. Hence, the methodology in both fields consists of the observing, recording, and verifying of data which comprise facts with which repeated experiments and comparisons may be made, and when so related constitute an investigation or study.

The mechanical equipment of scientific laboratories consists of instruments and processes, uniform or tending to uniformity, and standardized so the results in one laboratory (all the factors, including surroundings, being constant) can be compared with those of other laboratories, or

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be used as a finished piece of work, or for further experiments. The social-research laboratory consists practically of the whole range of thought, feeling, and activity of persons in social relations, or such parts of it as the investigator may select. Its mechanical equipment consists at present largely of schedules, questionnaires, and testimony sheets, having little similarity. These data are reduced as nearly as may be to statistical tables, charts, and formulas such as are used to express the findings of the scientific laboratory, which are based upon standardized equipment, uniform conditions, and repeated experiments. This equipment is being steadily enlarged from the physical and psychological laboratories, until to-day we have at our command the resources for gathering information in most fields of social research.

Now, applying the principles of social research to political organization, what is the immediate result? First, while the platform defines the limits of the laboratory, it is realized, restricted, or expanded in accordance with the laboratory findings. If, for instance, the laboratory shows such a plank as mothers' pensions to be unworkable in practice, by bringing together the experience of the country, the evidence is presented and a substitute measure recommended. Platforms worked out in this way would leave the candidate little excuse for not living up to his pledges, and would make political activity wholly intelligent. Second, the findings of the laboratory must be made of practical value. A government laboratory may suppress findings for expediency or party reasons; the welfare organization may be content to give its findings to the world for any one to use or not as it sees fit, but the party laboratory conducted as here conceived is bound to vitalize its members. It does this by having a legislative division where the man or woman interested in laws can get models, briefs, data, and speakers for hearings; by furnishing speakers and literature to those interested in meetings; by sending programmes and lecturers to clubs and to those desiring to introduce the social element. Now high as the note of the present organization of parties may sound, as at present constituted, the key-note is always to *get* something—the dominant note of this supplemental organization is to *give* something. *Giving* is the motive, and we then have within the party itself a complete organization receiving and ex-

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pending irrespective of the capture of offices. Hitherto parties have stagnated and deteriorated between elections because they have believed they had nothing to *give*. This then should be designated the service idea in party organization.

We can, perhaps, best illustrate the success of the method as applied to parties by its achievements. The National Progressive Party has a Progressive Service Department which is the embodiment of scientific party organization supplementing the legal political organization.

It has been in existence but a year and is as yet crude and defective, meeting intolerance and opposition, and is held by many to be a menace to party organization. It is attacked as an unnecessary duplication of work, and as "impractical," that greatest of political sins. This is inevitable in so radical a departure from all standard party organization.

The Service divides the party platform into what are known as four platform departments—Social and Industrial Justice, Conservation, Popular Government, and Cost of Living and Corporation Control. Each of these departments is divided into sub-committees in charge of the very best experts the Service can muster. Under Social and Industrial Justice these committees are Men's Labor, Women's Labor, Immigration, Social Insurance, and Child Welfare. Under Conservation, the committees are Natural Resources, Country Life, Health, Productive Efficiency, and Practical Training for Public Service. Under Popular Government, the committees are Direct Legislation (including the Initiative and Referendum and Recall), Equal Suffrage, and Judiciary Reform. Under Cost of Living and Corporation Control, the committees are Cost of Living, Trusts and Corporations, and Tariff and Taxation. Every plank of the platform is in charge of some committee of experts. These committees consist exclusively of experts and authorities and are actively engaged in studying these subjects, presenting their findings and making experiments.

As illustrations, the Social and Industrial Justice department has completed, as its year's work, an analysis of workmen's compensation laws, social insurance, and standards for labor departments. The Committee on Direct Legislation has prepared and sent out a questionnaire on the initiative and referendum. The laboratory work as a whole is of

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course limited by the inadequate facilities of a new organization and by its finances.

The way in which the national legislation of the Progressive Party has been formulated shows the next step. There are twelve bills which have been prepared by the legislative committee of the Service in co-operation with a committee of six of the Progressive Congressmen. No bills are presented as party measures which have not the indorsement of these two committees. These bills have been printed with a compendium and sent out to the voters for suggestions for amendments—an organized referendum to the people of the *formulation* and execution of the programme they have outlined before its enactment.

In the matter of State Legislation twenty-seven States have legislative committees and twenty-one States have State services which do for each State what the National Service does for the country in acting as their clearing-house between States.

Now the drafting or passage of a law often represents the greatest advance which the subject has reached, and unless the public understands that proposal or law, sympathizes with it, and believes in it, the best administrator in the world cannot enforce it. The understanding and vision of members of a party range all the way from the kindergarten to the seminar in the matter of their conception of needs, and of remedies, and a party to have unanimity on its platform utterances and execution must have publicity, education, speakers, lectures, moving pictures, and every device possible, to enable it to reiterate the story many times to obtain this. Therefore the laboratory must have its publicity, lyceum, speakers, and publications department for the country, covering its whole platform.

Now in the absence of such a laboratory system what is the prevailing method? State executives and legislators are called upon to-day to pass upon the most complex social problems—minimum wage, various forms of State pensions, workmen's compensation, and frequently to decide upon the merits of conflicting bills upon the same subjects. To whom can they turn? Hitherto to non-partisan, philanthropic organizations, if they had no prejudice against them as "reformers"; but generally to party managers and lawyers. The lawyer by the very nature of his training and deference for precedents is the very opposite of a disinter-

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ested investigator. He has no faculties for other than an examination of legalities. Even where executives retain a permanent counsel, they are rarely persons with a social point of view or with an aptitude for acquiring a large amount of social data bearing on the subject; their judgments are legal rather than social. They are more concerned with what the law will permit than with what men require. The result is that the great majority of legislators, honest men, often from fields of toil remote from these perplexing questions, who want to vote right on the various bills, have no way of commanding the knowledge enabling them to do so. The enterprising, self-interested corporation, knowing the value of such data, systematically and effectively sees that legislators get what it wants them to know.

The same thing is true of the courts. When the test of a law is made the arguments are limited largely to what lawyers present. The result is that oftentimes a court has no information presented to it concerning the intricate, underlying social and economic conditions it is sought to remedy. The time is not far distant when courts will not be content with arguments, and with the appearance of the representatives of clients and of litigants. They will receive data in conformity with scientific laws in addition to those now received in accordance with procedure. Experts of the State, who will be its representatives, will appear and present facts, and will be subject to recall if they do not impartially present accurate findings.

Heads of departments are called upon to administer laws and enforce regulations which have no meaning for them. Rarely does a statement of the conditions leading to the enactment of the law accompany it to the official charged with its enforcement. Formerly, government agencies were created primarily to deal with the affairs of property. Many of the existing departments of government, and practically every new department which has been added within the last decade, deal primarily with the social and industrial relations of men.

There is no one way in this country at the present time that the legislators and executives of one State, in their direst need, can find out the experience of a neighboring State. This is where national political organization laboratories can render a service, and where the non-partisan philanthropic organization generally fails. The National

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Child Labor Committee can furnish information on child-labor matters, but where can the harried legislator, who has introduced a bill on old-age pensions, on mothers' pensions, on minimum wage, on immigration distribution agencies, or on regulation of employment agencies, turn to find both the advocate and the information to support his bill? Where are the data on which his bill should be founded, to be practicable? It is scattered among half a hundred different organizations or it is buried in foreign-government documents, or it is not compiled in any form. With thousands of bills to vote upon, the legislator cannot stop to get this information nor would he know where to turn, and, therefore, cannot enlighten his fellow-members.

The Progressive Service, in addition to its research equipment, has created two bureaus, one on legislation, already described, and the other a bureau of education. To illustrate again the application of scientific principles to political organization in the field of education: The great agent in formulating public opinion is publicity. In the party field there is no bureau of publicity not concerned primarily with attacks on rival parties or engaged in putting the best light possible on its own efforts. The publication of truth is not expected from a political headquarters, and, therefore, such information is discredited. Now it is not only conceivable, but it is a fact that the publicity of a party organization can be organized so as to furnish speakers whose statements are reliable, lecturers whose knowledge of their subjects is known to be complete and authentic, scenarios for moving pictures which present facts, newspaper releases which popularize technical information, and literature that will stand a literary and veracity test. The Progressive Service has a Lyceum Bureau which runs its speakers' division the year round, places its own lecturers and furnishes illustrated lectures, and whose publications and interviews must stand the tests applied to such work in other fields. The Lyceum Service routes its lecturers to the places which most need education from the social-welfare point of view. This routing is based upon a careful study of the localities—their institutions, surroundings, demands, and current events determining their need of political education. The speakers' bureau not only furnishes speakers, but supplies them with material for their subjects, with bibliographies and literature. The literature department issues its publications in

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serial form, which gives them a dignity and accuracy wholly lacking in the usual campaign documents.

A clearing-house for information as a stimulus to action requires not only a heterogeneous mass of people bound together on Election Day, partly by devotion to principles, partly by loyalty to leaders, partly by sentiment, but, to become effective, it needs to be an organized medium. In each State the educational elements within the party are organized into State Progressive Services, having departments and bureaus corresponding to the National organization. The State Service is a part of the State Committee, and the chief of Service is responsible to the State chairman; the one carries the political organization required by law; the other the educational work necessary to give the people opportunity for service the year round. In the absence of a campaign the Service work prepares the way and does its hardest work. In times of campaign its material and resources are placed at the disposal of candidates and speakers, are used to formulate platforms and to win supporters to carry on party work as a whole.

Perhaps not the least interesting thing in the Service is its financial organization, which provides for a budget, detailed expense accounts of employees, and monthly and special reports of all officers, which make it possible to analyze the cost of any given piece of work and to judge of its economy or waste. The Service believes that there is no item of expense which should not be thus accounted for, and that the returns eventually will be as definite and determinable as in any other educational or business enterprise.

Now contrast this organization, which is running every day in the year independent of the question of candidates and elections, with prevailing political methods in other great parties. Speakers are not only sent out during campaigns, with no attempt at their education or direction, but many are paid for their service and have chiefly a commercial interest in their work. They are gathered hastily together, never trained, and when the campaign closes they are dropped as quickly as they were assembled. Literature so-called is thrown together, facts are distorted or are wholly lacking, and most of it will not bear a careful scrutiny away from the light of a campaign fire. People are gorged in a few weeks with reading material which might mean something if it came regularly to them. Po-

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litical clubs spring up like mushrooms, collect money, and spend it without regard to ascertainable returns, and work without system or effect.

Now these speakers and the thousands of young men and women in such clubs will be the public administrators of next year. Is it not, therefore, the paramount duty of the political organization to be interested in the training and the ideals of these young men and women? Not only is this true for the campaign, but for fundamental training. On this ground a responsible political organization, whether in power or not, should be interested in the courses of instruction in State institutions, receiving State aid, and in general educational methods in practical politics in the new sense of the word, which spells efficiency and honesty instead of feasibility and trickery.

The Progressive Service meets this by having a committee which is studying the equipment of schools and colleges for public service, with a view to submitting recommendations for increased training to such institutions.

It is significant that the old methods of organizing for campaigns and of strengthening party organization by means only of candidates and offices are rapidly disappearing. The old political headquarters, maintained as smoking and drinking quarters, where men met to arrange deals and where the basis of association was an interest in winning an election or dividing the spoils of office, are giving way to headquarters open the year round between campaigns, where men and women meet to discuss political issues and social and economic conditions, and where men are not ashamed to talk openly of party policies. The borough and city and county platform has made its appearance and is the basis for such meetings.

Such meeting-rooms are now the haunts of the scholar and of the statesman, and of the business and working men and women. The politician, as the public has been taught to see him, is disappearing as the leader at such headquarters. Men and women are beginning to realize that here in these thousands of places policies are determined upon and matters concerning their welfare debated and settled even before the primary selects the candidate to carry them out. These headquarters and their activities are as important to the adult thinking men and women to-day as is the school to the child. The school of politics run by the

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Progressive club is an established institution. The Service idea in politics is abroad in many guises. It is organized as yet only superficially. It is in the state of electricity and steam when first discovered—it is unharnessed and its power ungauged. In Massachusetts it is expressed in the Federation of Progressive Women; in Kentucky, in the Woman's Progressive League; in many States, in Progressive clubs with service committees; among minors, with Boys' Progressive clubs; in twenty-one States, in Service boards; in other States, in staffs of Service correspondents. Its forerunners have been the thousands of non-partisan organizations which have plowed the fields, and the courageous individuals who have stood alone battling for progressive ideas. The Service is training new men, interesting new people in politics, and discovering new ways of making politics interesting. Not the least of its possible contributions will be inducing able men to take office. Once the Service element is established in party organization, men who have shunned office will no longer fear its effects and will assume this last burden of responsible citizenship.

The successful party of to-morrow must meet the demands of this new spirit by new methods; of this thirst for knowledge by information; of this demand for service by real opportunities for work; of this appeal for the recognition of the individual by consideration of his capacities and temptations; and of this need of organization by system.

To the old-time party politician a scientific party organization has little meaning. The practical politician fears the party will become academic and discussion will supplant action. Many who see the needs of government ignore the needs of the party. The reforms in government begin in the party. There can be no reform in government administration without corresponding reform in parties. If the one is based on spoils, the other will be. An administrator may rise above his party, but his work will not endure if his party is too far in arrears. The work of Governor Hughes of New York was in advance of his party and of the Democratic party now in power, and much of his work is now to be done over because of it. Scientific organization based upon measures to supplement legal political organization is therefore likely to become a final test of the supremacy and endurance of political parties.

FRANCES A. KELLOR.

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THE TREATY-MAKING POWER: A REJOINDER

BY EDWARD S. CORWIN

In his article in the April North American Review [1] Mr. Henry St. George Tucker argues that the reserved powers of the States limit the treaty-making power of the United States. In the following article the contrary view will be presented.

Mr. Tucker admits that it may be inconvenient "to permit the people of one State . . . by its independent and antagonistic action to defeat a treaty whose beneficent effects are intended to reach all the people of the United States," but he contends that "the argument *ab inconvenienti* . . . cannot be admitted in the consideration of constitutional rights." Unfortunately, he soon forgets this equally correct and sensible principle, for he contends with great urgency that if the view combated by him be correct, "the negro from Hayti or the Congo may under a treaty be free to enter the schools of Texas and ride in any coach on a railroad that may suit his tastes, notwithstanding the law of Texas to the contrary"; and he inquires, with considerable indignation, whether American citizenship is "to be a badge of inferiority and the alien to be preferred to the native-born American." No doubt we incur grave risks in maintaining a National Government at all. For with its powers to regulate commerce and to tax, Congress has trade, business, and private incomes pretty much at its mercy; with their powers of appointment the President and Senate can fill all of the offices with rogues; with his powers in the conduct of foreign relations the President can bring on that worst of calamities, a foreign war, for any sort of cause. But then we recall that the States themselves originally possessed some of these powers and used them to so little advantage that the people transferred them to the

[1] "The Treaty-Making Power Under the Constitution of the United States."

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central Government. Very likely they should have abolished them outright.

Turning, then, to the question at issue, we find that Mr. Tucker bases his argument upon some words from Story and Cooley, upon the admitted fact that the treaty-making power is a constitutionally limited power, upon one or two judicial utterances, and upon his reading of the Tenth Amendment and Article VI., Paragraph 2, of the Constitution.

The words from Cooley sustain Mr. Tucker's position, but as Cooley cites in their support the same words of Story that Mr. Tucker does, the question before us is whether Story's words have been properly used. These are as follows: "But though the power [of making treaties] is thus general and unrestricted, it is not to be so construed as to destroy *the fundamental laws of the State.*" These words Mr. Tucker quotes four times, but on the last two occasions he introduces an interesting variation by making the word "State" plural! For this proceeding there is no warrant. Story in the passage quoted uses the word "State" in the generic sense and means by it the *United States.* This is shown, first, by his capitalization of it, whereas he always puts the States of the Union in the lower case. It is shown, secondly, by the words that immediately follow the ones quoted: "A power given by the Constitution cannot be construed to authorize a destruction of other powers *given* in the same instrument." If the powers of the States are *given* them by the Constitution, what becomes of their *reserved* rights? But it is shown finally by his words on the precise point under discussion: "The peace of the nation and its good faith and moral dignity indispensably require that *all* State laws shall be subject to the supremacy of treaties with foreign nations." (Section 1838.)

But the ultimate authority, that upon which commentators and courts must alike rest, is, of course, that of the Constitution. The Tenth Amendment to the Constitution reads:

> The powers not delegated to the United States by this Constitution nor prohibited by it to the States are reserved to the States respectively or to the people.

These words, by Mr. Tucker's own presentation of the case, do not advance the discussion much, since the treaty-

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making power *is* delegated to the United States, wherefore the crucial question still demands answer, as to what happens when that power is so exercised as to conflict with the exercise by a State of one of its reserved powers. The really pertinent passage of the Constitution is therefore Article VI., Paragraph 2, which reads thus:

> This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land; and the judges in every State shall be bound thereby, *anything in the constitution or laws of any State to the contrary notwithstanding.*

It would be tolerably difficult, I surmise, to select words conveying more clearly the idea that State power cannot limit national power. *For if the States possess a power, they may exercise it by enacting statutes or constitutions.* But it is here declared that *any* such statute or constitution, or part thereof, conflicting with a treaty made under the authority of the United States must fall to the ground; and how "the authority of the United States" is to be deemed limited by that over which it is pronounced invariably supreme is certainly more than the mind untutored in the dialectics of the State Rights school can easily fathom.

But Mr. Tucker points out, what indeed is universally admitted, that the "authority of the United States" by virtue of which treaties are made is not an unlimited authority; that, for example, it does not constrain Congress to vote money to carry out a treaty; and he contends that "supremacy admits of no limitations, exceptions, or conditions." Very true, but the question still remains, Supremacy of *what* over *what?* And the answer is, Supremacy of treaties made by the authority of the United States, which is the authority established, created, and defined by the Constitution, over *all* conflicting State laws and constitutional provisions; and the similar supremacy of all acts of Congress made in pursuance of the Constitution.

However, not desiring to make Article VI. mere empty verbiage, Mr. Tucker introduces a distinction. It is entirely apparent that Article VI. owes its existence directly to the recognition by the framers of the Constitution that the States would continue to possess large and undefined powers of legislation which would probably be exercised in the future, as they had been in the past, to the derogation of national power. But Mr. Tucker would have us

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believe that the only kind of State laws against which the framers intended to safeguard national power were the laws which the States would pass by virtue of what he calls their "concurrent powers." Let us examine this contention.

Mr. Tucker defines "concurrent powers" as "powers which the Federal and State governments each employ." The definition is imperfect. More accurately speaking, concurrent powers are those which the States may exercise within the field of power assigned by the Constitution to the National Government *in the absence of conflicting national legislation.* Actually, the idea has been of little importance in constitutional law save in connection with State legislation *directly* regulating foreign or interstate commerce; and in this connection it did not obtain legal standing till 1851, in the famous case of Cooley *vs.* The Board of Wardens (12 How. 299), where, however, it is used, not in contradistinction to what Mr. Tucker calls "the reserved powers of the States," but to those branches of commercial regulation which are closed to the States by the mere grant of power to Congress. Moreover, the Court there declares explicitly that these powers belong to the States, not by virtue of any delegation of power from the National Government, but of original right—that is, that they stand on the same footing with all other State powers. And to-day the term has substantially disappeared from the vocabulary of the Court, which regards all State legislation as enacted by virtue of the same power, to wit, "the police power." But suppose we admit what is apparently Mr. Tucker's view, that these powers are different from the States' reserved or police powers, in that they owe their existence not to the States' autonomy, but to the allowance of the National Government. Then indeed is Article VI., Paragraph 2, superfluous, since obviously this allowance may be withdrawn at any moment. Finally, Article VI. knows nothing of this distinction: it says "*anything* in the constitution or laws of *any* State to the contrary notwithstanding."

But, lastly, Mr. Tucker makes his case concrete by citing a power which undoubtedly is one of the reserved powers of the States, in the strictest sense of the term, and which accordingly, if his contention is correct, cannot be invaded by the treaty power. Thus he quotes the language of Justice Field in United States *vs.* Fox (94 U. S. 320):

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The power of the State to regulate the tenure of real property within her limits, and the modes of its acquisition and transfer, and the rules of its descent, and the extent to which testamentary disposition of it may be exercised by its owner, is undoubted.

And again the language of Justice Washington in McCormick *vs.* Sullivant (10 Wheat. 202):

The title and modes of disposition of real property within the States, whether *inter vivos* or testamentary, are not matters placed under the control of Federal authority.

At the close of his paper, furthermore, Mr. Tucker in a note "confidently asserts that no case has been decided by the Supreme Court involving the direct question herein discussed"—that is, the competence of the treaty-making power to invade the field of State rights. Let us see whether this confidence is well founded.

The same judges, with one exception, who decided the McCormick case also decided Chirac *vs.* Chirac (2 Wheat. 259, 1817); the same judges, with one exception, who decided United States *vs.* Fox also decided Hauenstein *vs.* Lynham (100 U. S. 483, 1879); and the judge who wrote the opinion in the United States *vs.* Fox again spoke for the Court in Geofroy *vs.* Riggs (133 U. S. 258, 1890). In each of these three cases the issue was the same; it lay between claimants to real estate whose right to the property involved was admitted to be perfect under the local law and other claimants who asserted the right to claim the same property *as heirs* to it upon the basis of certain treaty provisions.[1] In each case the decision of the United States Supreme Court, given unanimously, was in favor of the latter claimants; and the basis of the decision was in each case announced to be Article VI., Paragraph 2. Later, reviewing these and similar decisions, Attorney-General Griggs stated the rule that they unmistakably establish:

The fact that a treaty provision annuls and supersedes the law of a particular State upon the same subject is no objection to the validity of the treaty. (22 Opinions 214.)

Mr. Tucker's "confident assertion" just quoted is therefore plainly without merit; as is also his further assertion that

All of the cases have decided questions collateral with the real issue involved in this [his] paper.

[1] The local law in Geofroy *vs.* Riggs was that of the District of Columbia, but it was ruled that the term "State" of the treaty applied also to the District.

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Nor, had he turned from judicial decision to the practice of the treaty-making body, would he have found better support for his general thesis. The United States has since 1789 entered into dozens of treaties of amity and commerce, extradition treaties, and Consular Conventions, every one of which has to a greater or less extent invaded the field normally occupied by the States in the exercise of their reserved powers.[1] This subject naturally cannot be entered upon at length in a short article, but one treaty I will make specific reference to. This is the Convention of 1800 with France, which, in the language of the Supreme Court of the United States, gave citizens of France "the right to purchase and hold land in the United States"—in contravention of the common law rule, then prevalent in every State in the Union—"removed the incapacity of alienage, and placed them in precisely the same situation as if they had been citizens of this country." This indeed, to quote Attorney-General Cushing, is "the most expressive of all precedents, it having passed through the hands and received the approbation of John Adams, John Marshall, Oliver Ellsworth, Thomas Jefferson, and James Madison, who, if anybody, should have understood the Constitution."

On the precise question, therefore, of the relation of the treaty-making power to the reserved rights of the States, our conclusion must be that the latter do not limit the former to any extent; that, in other words, *the United States has exactly the same range of power in making treaties that it would have if the States did not exist.* Further, it should be pointed out that the same rule of construction also applies to the powers of Congress, though those powers occupy only a portion of the field of legislative power.

The Convention of 1787 desired nothing so much as to get rid of that State intervention which had wrecked the Articles of Confederation. This it accomplished in three ways: by providing the National Government with executive machinery of its own; by making the Supreme Court the final interpreter of the Constitution; by providing for the supremacy in all cases of the national authority, as defined by the Constitution, over conflicting State authority. The point of view of the Convention was voiced by Wilson thus:

> With respect to the province and object of the general government they [the States] should be considered as having no existence.

[1] National Supremacy, Treaty Power *vs.* State Power, by the writer.

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Later a motion was offered in the Convention prohibiting the National Government "to interfere with the government of the individual States in any matters of internal police which respects the government of such State only and wherein the general welfare of the United States is not concerned." Despite the careful language in which it was couched, the motion was voted down by eight States to two.[1]

The view that the reserved powers of the States comprised an independent limitation on national power probably first found expression in the debate on Hamilton's Bank Project of 1791. Opposed as he was to the bank, Madison pronounced the argument fallacious. "*Interference with the powers of the States,*" said he, "*was no constitutional criterion of the power of Congress.* If the power was not given, Congress could not exercise it; if given, they might exercise it, although it should interfere with the laws or even the constitutions of the States."[2] Nevertheless, a generation later the same notion was again afoot, though now in a modified form. "It has been contended," recites Chief-Justice Marshall in his opinion in Gibbons *vs.* Ogden (9 Wheat. 1, 1824), "that if a law passed by a State *in the exercise of its acknowledged sovereignty* comes into conflict with a law passed by Congress in pursuance of the Constitution, they affect the subject and each other like equal and opposing powers." In other words, it was not claimed on this occasion that the National Government was under constitutional obligation not to invade the field occupied by the reserved powers of the States, but that whenever it did so the States could use their reserved powers to block it. "But," the Chief Justice answered: "The framers of our Constitution foresaw this state of things and provided for it." Whenever the Federal Government has acted in the exercise of powers intrusted to it, "in every such case the act of Congress or the treaty is supreme, and the laws of the State, *though enacted in the exercise of powers not controverted,* must yield to it."

The thing that really gave the doctrine urged by Mr. Tucker the slight standing that it has at isolated points obtained in our constitutional law was the spread of the dissolving theories of the "Great Nullifier," a circumstance which serves to bring out what had probably already become

[1] The scope and import of Article VI., Paragraph 2, were well understood by the opponents of the Constitution. See *Federalist*, 44 and 64.

[2] See Annals of Congress, Vol. II., Col. 1891, ff.

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evident to the reader, that Mr. Tucker's doctrine is only a special form of the doctrine of nullification. The actual task of nullifying national authority is, so to speak, farmed out with the Supreme Court of the United States, but the supposed legal basis for doing this—namely, the vast, undefined, legislative powers of the States—remains the same. In the last analysis the doctrine is self-contradictory, since the right of the Supreme Court itself in taking appeals of constitutional cases originating in the State courts is a clear invasion of the reserved rights of the States.[1] Fortunately, therefore, not only for the treaty-making power and the powers of Congress, but for its own power as well, the Supreme Court has to-day returned to first principles. Of this such decisions as those in Henderson *vs.* New York (92 U. S. 279, 1875), Minnesota *vs.* Barber (136 U. S. 313, 1890), *in re* Rahrer (142 U. S. 545, 1891), the recent Employer's Liability Cases (Mondou *vs.* N. Y., N. H. & Hart. R. R. Co. 223 U. S.), the Minnesota Rate Cases (230 U. S.), and Hoke *vs.* United States (227 U. S.) furnish proof positive, to say nothing of a host of dicta.

Thus in the Employer's Liability cases, the Court was confronted with the now notorious decision of Chief Justice Baldwin of the Connecticut Supreme Court in the Hoxie case, in which enforcement had been refused the act of Congress on the ground of its disharmony with "the policy of the State." Strangely unaware as the Connecticut Court showed itself to be of the established canons of constitutional law, its view must, after all, be admitted to have been the inevitable one if the reserved powers of the States limit national power. But the Supreme Court of the United States no longer subscribes to this doctrine. The theory of the Connecticut Court was accordingly swept aside, in the following language taken from the National Court's earlier opinion in Smith *vs.* Alabama (124 U. S. 508, 1888):

> The grant of power to Congress to regulate commerce . . . is paramount over all legislative powers which, in consequence of not having been granted to Congress, are reserved to the States. It follows that any legislation of a State, *although in pursuance of an acknowledged power reserved to it,* which conflicts with the actual exercise of the power of Congress over the subject of commerce must give way before the supremacy of the national authority.

And not less significant is Hoke *vs.* United States, in which the Court upheld the Mann Act forbidding the taking

[1] See Hunter *vs.* Martin, 4 Munf. (Va.), 1.

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of women from one State to another for immoral purposes. The opponents of the act contended that, inasmuch as its obvious purpose was not to safeguard commerce, but the public morals, it represented an attempt by Congress to usurp the powers of the States. But the Court held unanimously that Congress, no less than the State legislatures, may exercise its constitutional powers for all the large recognized ends of government; that, in other words, though the *powers* of government are apportioned among us, *its objectives* are not. The decision expels the theory of indefeasible State rights from its last angle.

To conclude: The reserved powers of the States comprise, loosely speaking, the sum total of governmental powers after the powers granted the National Government by the Constitution are counted out. The National Government may use *only* the powers thus granted it and, as the Tenth Amendment makes clear, has no "inherent powers." But in using its granted powers, which it may do for all legitimate purposes of government, it often brings under its control subject-matter that also falls to the control of the States in the exercise of their reserved powers. In *all* conflicts of authority thus resulting the States must give way because of the provisions of Article VI., Paragraph 2, which, when it is not read "under the prepossession of some abstract theory of the relation between the State and the National governments" (Justice Bradley in *ex parte* Siebold 100 U. S. 371, 1879), is perfectly explicit. In short, though national power is limited power, the reserved powers of the States do not furnish one of the limitations.

Edward S. Corwin.

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RELIGION FROM ANOTHER ANGLE

BY WALTER PHELPS HALL

THE physicians of the soul are many; they are also skilled in practice—revered bishops, pastors wise and trusted, clear-thinking laymen, a goodly company of distinguished men. Headstrong, indeed, is he who would confute their findings, pick flaws in reasonings profound, proclaim another sovereign remedy for the troubled spirit of his fellowman. Yet the illness is a grievous one and still remains unchecked. And if they fail, to whom is given power, recognized authority, the poorest then among us may propose his plan, speak forth, if not with wisdom, yet with honesty.

Organized Christianity seems to-day on the defensive, its back to the wall. It has neither the prestige nor the power that it once had; its authority is slowly but steadily on the wane. To some extent statistics tell the story, and though in professional sleight-of-hand the ecclesiastical census man is all but the peer of the college registrar, even he cannot conceal the fact that in both the United States and Western Europe church membership has failed to keep pace with the growth of population. Furthermore, in all but a few instances, divinity schools are half empty, and this despite free tuition, free dormitories, heavy endowments. But the real weakness of the Church lies more in impotency of spirit than in stationary numbers. Indifference, disaffection, disbelief—these are the enemy within the gates, more insidious by far than the open foe. The army of the Lord numbers its tens of thousands, but a modern Gideon would lead but few against a host of Midianites.

The Church still finds support, it may be conceded, even from those who no longer consider its interests paramount. It is a traditional institution, and traditional institutions die hard. It affords a convenient outlet for superfluous

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feminine energy; its services are at times restful and pleasant; it is something of a barrier against crime and social discontent. Many a man argues thus, perhaps unconsciously, and continues to pay pew-rent, if it is not too costly and business is good. He does not, however, often go to church, nor for its stability and growth will he make serious sacrifices. These are facts that most of us, willingly or unwillingly, recognize.

Neither the cause nor the remedy for this state of affairs is known. Diagnosticians abound, prescriptions are plentiful; but agreement there is none. In the columns of our more serious reviews one may study at leisure the widely variant character of present-day religious thought and emotion. The claims and progress of Roman Catholicism have been chronicled in consistent and somewhat triumphant fashion by Mr. Barry and Mr. Benson. We are assured by the one, although we are not altogether persuaded, that the papacy is a thoroughly democratic institution; by the other we are told, what we cannot altogether believe, that modern psychological science demonstrates the possibility, nay, the probability, of miracles. Many have spoken also for Protestantism, and if not with unanimity, at least with strong conviction. Christianity, Mr. Churchill affirms, is synonymous with good government, and the bewildered reader discovers that he is expected to argue the propriety of judicial recall in terms of Christian ethics. Mr. Nicholson pleads the cause of the institutional church, waxes eloquent and convincing on the causes that keep Smith from the sanctuary; but the picture of his seven-day-in-the-week edifice, with its mild social entertainments, boys' brigade, gymnasium, and other paraphernalia, is far from attractive. We are told why Smith should go to church and why he should not, how the church hungers and thirsts for the soul of Smith, how it can get along quite nicely without him. Out of the High Church corner comes a denouncement of Smith, based somewhat fantastically, be it feared, on the historic ground that money-making Smiths have exerted a baneful influence on the spirit of Christianity. From other directions, in the mean while, Smith is sturdily defended, his absence from the church and his admiration for God's great out-of-doors warmly commended.

Surely amid this variety of opinion every man should find his own nook and ingle. Yet many men are not here repre-

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sented. One great division, at least, of the religious family, has been left without spokesmen. Curiously enough, there has been no champion of the old Protestant faith in all its rigid purity. Even New England, the very rock and citadel of Puritanism's finest fighting stock, has naught to say in the chosen medium of its culture on behalf of that iron-bracing creed that helped to people a continent. It cannot be that creed is dead already—that calm and strongly founded faith in God the Father, and His immutable will toward man, that faith fast held by our fathers and oft regretted by their sons! Where are its defenders?

But there are men that fall into none of these categories to whom religion is a vital, even if somewhat elusive, reality —men whose names are by accident of birth, inheritance, or early choice enrolled on the lists of the faithful, but whose spirits chafe and are ill at ease. What is to be done for them? Their faith is in many cases a tangible thing, no mere bundle of idle negations or silly phantasies, but an affirmation precise, definable. They look the vital things of the life religious squarely in the face and realize that all is not well. The defenses of the Holy City are weak; what is the cause thereof? The breaches in the walls of Zion are growing wider; how may they be filled? To these questions there are many answers,—perhaps there will be to the end of time,—and thus it should be. No man may pledge a blind allegiance, nor for the sake of uniformity and peace forswear his honesty. Each for himself must clear his stand and formulate his creed, and this the writer tries to do, convinced that in so doing his feeling and experience is but the lot of many others.

Religion seems conditioned by two facts, one negative, the other positive. Negatively, the church must surrender all claim to ethical and spiritual authority. Man has come too far along the hard-fought way of liberty ever again to submit his conscience, or, if you please, his good calm reason, to a priest, or a book, or to any authority whatsoever. An independent and intelligent laity forms now its own opinion concerning divorce, race suicide, Sunday baseball, and a dozen other questions of practical ethics. No longer will it listen to ecclesiastical homilies on these subjects; nor be governed by authority or precedent, no matter how direct or how biblical. The man of to-day bases his ethics largely upon reason; the man of to-morrow will do so altogether.

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Moreover, his theology, if he has any, will also be his own. Creeds Athanasian and Nicene may still exist; but if they do, adherence to them will be optional. The miracles of the New Testament will be received or will be denied, solely as the individual wills it. They will be interpreted literally, spiritually or otherwise, by every man according to the light that God has given him. No church will possess the seal of authority. No synod, classes, or convocation will presume to determine what man shall believe and what he shall not. These matters—the trappings and the suits of the life religious—are of concern to a few only. The ecclesiastical battle-flags of the bygone have not only become dusty; they have ceased to be battle-flags. Most of us care not at all whether there is a resurrection of the body or not. We may at times imagine that we do; we may occasionally whet up enthusiasm for old historic Christian dogma; but way down deep within our hearts we are indifferent and we know it.

In ethical and intellectual subordination to authority both Roman Catholic and Protestant should be heartily condemned. It cannot be believed that the Pope is vicegerent of God on earth, and as such is the ultimate source of authority in matters of faith and morals. Protestantism, on the other hand, has aided our intellectual development but slightly. History has so often emphasized the difference between Catholic and Protestant that their essential likeness has been overlooked. Certainly Luther remained till his death a thorough-going Medievalist; and the revolt which he headed left the great bulk of Christian doctrine untouched. It is true that the authority of a living church was destroyed; but that of an inorganic book was substituted, destined in time to be surrounded by as strict a taboo as ever was attached to a statue of the Madonna. Luther, in his unquestioned belief in the fall of man, in his explicit faith in the mystery of the Trinity, in his apocalyptic notions of the world to come, in his distrust and intolerance of the world about him, in his continual emphasis upon authority, lay and spiritual, in all of these things differed not a whit from Saint Thomas Aquinas or any other medieval doctor. Nor was Calvin more advanced; he abolished the eucharist, a rational mystery, and inaugurated on his own account those two colossal incomprehensibles, foreordination and election. It is the spirit of science rather than Protestantism that has broadened our mental horizon.

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From the thirteenth century and the days of Roger Bacon to Darwin, Pasteur, Metchnikoff, and our own times, the scientific explorer has led humanity over the dismal quagmires of ignorance, traditionalism, and intellectual timidity. Religious leaders have taken comparatively little part in this process. And though one must admit that Protestantism has advanced far since Calvin's day, it has done so by accepting the inevitable rather than by bringing it about. It has swallowed Darwinism, but it first tried to kill it; it permits freedom of conscience, but still exacts what trifling conformities it may.

The first demand, then, is for unlimited freedom of conscience. This is a negative demand, entirely unreligious in its quality and substance, but a necessary condition or atmosphere by and in which religion must develop. Man's mind is the most precious of all the gifts of God, the very corner-stone of his life. Without it he is a lost soul. One might as well build cathedrals upon quicksand or battleships in the Sahara as to make a civilization without reason, and this all men know.

Equally essential is the second postulate of our religion—faith unqualified, complete, in the reality and power of unseen life. This faith is not belief, a thing assumed. It transcends belief, thought, reason, and the mind of man; it simply is—a surging tide of infinite desire. To feel this thing, to know it, and to trust it, involves no wide acquaintance with the lore theological. Nor does it imply spiritual insight of a rare, unusual order. It knows neither class nor rank; it is as much at home in the palace as in the mining-camp, in the university as in a cottage. No emotion in the whole gamut of human experience is more widespread, no consciousness more catholic. Yet, though it encircleth the world and reacheth up its hands unto the stars, it is as fragile as the frailest glass, as tender as the most exotic blossom. It cometh to man as out of a cloud and departeth as a rainbow. Seek diligently for it and it may be found. Neglect it and it is lost. Guard, cherish, and watch over it, and one's life is filled with radiance, one's heart with courage, and one's soul with song.

Translated into terms of every-day living, this mysticism makes for many concrete things. It offers strength to the sick, buoyancy to the oppressed, and to all men hope. The proof of this is beyond cavil. Psychologists, Christian and

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non-Christian alike, bear witness to the power of prayer. The relationship of the different parts of the Trinity one to another may seem a distant thing, but we know that courage comes with prayer. Apostolic succession or forms of baptism may seem but curious survivals of half-forgotten lore, but we know that peace and quiet come with prayer. The regulation of the liquor traffic and the status of all vested rights of property may seem, perhaps, purely ethical questions, to be decided by our own good brain without reference to religious sanction, but we know that courage comes with prayer. Even William James, the founder of our modern pragmatism, assures us of this truth in his wonderful essay, "The Energies of Men," and quotes in further substantiation a distinguished British physician as follows: "The exercise of prayer in those who habitually use it must be regarded by us doctors as the most adequate and normal of all the pacifiers of the mind and calmers of the nerves." So strong, so potent is this influence that even belief in its efficacy is not always necessary, and he may sometimes reap the benefit who has no faith at all. The purely physical repetition of the Lord's Prayer upon one's knees in a darkened room has physically aided those who, though pure skeptics, tried the treatment because prescribed. But these are matters for the psychologist and physician. The fact that they sustain is one that needs no argument; the proof we find within us, positive, unanswerable—as that of honor, beauty, love, and other verities eternal.

The phenomena of religion, like those of electricity, evade definition; but of the reality of both forces there is no question. Furthermore, both are subject to regulation and control; both, if wisely governed, are of inestimable service; both, if unchastened and unregulated, are inimical to human welfare. Electricity may be measured and directed with absolute certainty. Religion also may be thus tested, though, be it admitted, less accurately, its current increased or diminished by well-known and proven methods. Where may they be found; how far are they exemplified by churches that we know of; what possibility does the future hold for their enrichment or enlargement? To these questions there is no final answer. The love of Saint Francis for the swallows is one in quality with the vision of the Delectable Mountain; the imprisoned Baptist tinker and the humble brethren of Assisi knew the same God. Their religion may be found

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anywhere; on the street corner with the Salvation Army, in the cool, spacious mosque, or on the mountain slope.

Yet many of us, though non-Catholic, find it more readily in Catholic churches. A prerequisite of mysticism, and shall we not say of religion itself, is peace and quietness. But peace and quietness are very subtle things. They depend not simply on the ear. The eye also is involved, and if the church be bright and cheery as many Protestants would have it, calmness and complete serenity are gone. This is not merely a question of taste; it is a psychological fact. Even as the night is quieter than the day, so are subdued lights more quiet than their opposites. Furthermore, man is an animal with several senses. To convey to him spiritual electricity in its strongest current each sense must do its part; each sense attune itself to be a good receiver. It is not enough that we should hear the words of Zion. We must needs see the altar of the Most High God; taste of the sacramental bread and wine and smell the high-ascending incense. Great also are abiding influences that ritual brings, the impress that it leaves upon the mind, deep-touching, permanent. By constant, solemn repetition deep grooves are worn in upon our consciousness that cannot come in other ways. Why should we not justly share in this great heritage of the ages past, robe, as of old, our priests in white; and, even as they who worshiped Isis and Osiris, burn sweet incense still before the sacred shrines? The most complete and soul-satisfying mystery that man has ever witnessed is the Mass. There one may see portrayed again and again in simple and dignified manner the two big facts of spiritual life—death and rebirth, rebirth and death. From the confiteor to the post-communion there lies before us an allegory, more impressive by far in the beauty of its simplicity than the winged words of the gifted preacher. Must we acknowledge the pretensions of Saint Peter's see before we enjoy the ritual for which it stands sponsor?

But, it may be said, this spiritual gift, this mystical buoyancy, may be gained otherwise. This is true; but in no other way may it be had so readily. The personality of a Spurgeon or a Phillips Brooks may leave an imprint on the soul of man the same in quality as the Mass. The Mass, however, may be found everywhere, a Spurgeon or a Brooks but rarely. The Quakers had this thing, this mystic *quantum;* and for a while it seemed as if they had solved the problem.

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Was their failure due to the impossible character of their undertaking, to their ignorance of the many-sided influences that play upon life? That no man can say; but this is certain: the Mass lives on to-day, the Quaker faith lies moribund.

Some realignment of religious values there must be, or else year by year the number of the discontented grows apace. Can we not take to ourselves the emotional richness and mystical content of Catholicism while steadily denying its ethical and intellectual suzerainty? Can we not render generous acknowledgment to whatever independence of spirit comes as our Protestant birthright while quietly insisting that we will no longer endure a church devoid of altars, candles, incense, mystery?

Four hundred years ago, the blessed Sir Thomas More described in his *Utopia* a church dark, spacious, quiet, where naught is taught of creed or dogma. As the first English translation of the *Utopia* quaintly tells us:

"Their churches be very gorgyous and not oneley of fine and curious workemanship, but also (which in the fewness of them was necessary) very wyde and large and able to receive a great company of people. But they be all somewhat darke. Howbeit, that was not done through ignorance in buylding, but as they say by the counsell of priestes, because they thought that overmuch light doth disperse men's cogitation, whereas in dimme and doutefull lighte they may be gathered together. . . . They burn frankinsense and other sweet savours and light also a great numbre of wax candles and tapers, nott supposing this geere to be anything available to the divine nature, as nether the prayers of men, but this unhurtful and hearmless kind of worship pleaseth them, and by theis sweet savours and sightes and other ceremonies, men feel themselves secretly lifted up and encouraged to devotion with more willynge and fervent heartes."

Thus thought Sir Thomas; but in the bitterness and strife that marked the Protestant revolt his plan found few supporters. The storm and tempest of his day left little room for tempered thoughtfulness; and since he was not partisan enough for any man, the wise and patient Chancellor of England was beheaded. But his church, true catholic, still is dreamed of. Within its reasoned loveliness some day perhaps mankind may find tranquillity and peace.

WALTER PHELPS HALL.

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THE MENDACITY OF HISTORY

BY JAMES WESTFALL THOMPSON

In *Memorials of a Tour in Italy,* Wordsworth speaks of

> Those old credulities, to Nature dear,
> Shall they no longer bloom upon the stock
> Of History?

He is speaking of the fragmentary survivals of ancient cults among the peasantry of Italy. One may, as appositely and with less tenderness, allude to another class of credulities—not to say distortions—of history which still flourish. For, to borrow a phrase from an astonishing sentence of Ruskin, the "splendid mendacity of man" is a thought which is continually driven home upon the student of history.

No allusion is now made to the numberless "fictitious narratives," of which the world has had so recent an example, nor to literary and historical forgeries like those of Annius of Viterbo or Chatterton, but to the credulous beliefs of thousands who possess a considerable knowledge of history concerning well-known and important events. Napoleon's terse *mot* that "History is a lie agreed upon," and Walpole's protest, "Anything but history, for history must be false," are not without grounds. From antiquity down, the pathway of the reader of history is filled with the pitfalls of popular misbelief. Ages ago Plutarch complained of the difficulty of finding out the truth of anything.

Since the rise of historical criticism in the cloisters of St.-Maur and St.-Germain-des-Prés; in spite of the labors of the great Benedictine scholars of the seventeenth and eighteenth centuries, who did so much to enlarge the glory of scholarship in the age of Louis XIV. and the *Ancien Régime;* in spite of the wondrous work done by the Bollandists and those Italian prodigies of learning, Mansi and Muratori; in spite of the penetrating research of a long line of patient investi-

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gators in Europe and America who have applied the principles of historical criticism so inspiringly taught by Ranke —men like Waitz, Sybel, Dahlmann, Scheffer-Boichorst, Holder-Egger in Germany; like Monod, Lavisse, Havet, and Coulanges in France; like Stubbs and Creighton in England, or the late Professor E. G. Bourne here in the United States —in spite of the labors of such as these, the field of history is still full of false and erroneous ideas.

"A fact is neither more certain nor more probable for being found in a great number of new authors, who have copied it one from the other," was wisely observed by the old Abbé Fleury long ago. Yet each succeeding generation perpetuates the errors of its predecessor. Every teacher of history knows how persistent and broadcast is the spread of false historical ideas. A considerable portion of the time of every teacher has to be spent in the uprooting of mistaken notions which have found lodgment in the minds of his students. And the discouraging feature of such education is that from generation unto generation of college classes, these errors are to be found, so that the ground has to be cleared anew each year.

Modern scholarship has revolutionized the history of the persecution of Christianity by the Roman government and exploded the old ideas as to the origin and use of the catacombs. Yet the false or exaggerated beliefs of uncritical and prejudiced writers and the sentimental conceptions of "historical" novelists still persist with almost unabated vigor in the popular mind.

The same observation holds with reference to the relations of the German barbarian nations to the Roman Empire. The all-too-prevalent belief that the Germanic movement was a vast flood of barbarism that engulfed the ancient world has little basis in reality. The Great Migration—what the Germans have called the *Völkerwanderung,* was not an inundation. If one wishes to use the metaphor of flowing water in illustration of it, the barbarian invasion, so called, was rather an infiltration into the Roman Empire, by the gradual seeping in of Germanic peoples and barbarian influences. The Migration filled five centuries of history and was a slow and gradual process, not a huge *débâcle.* The Germans entered the empire as settlers in the waste lands, as soldiers, for Rome for centuries recruited its legions from the peoples in the wilderness east

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of the Rhine and north of the Danube, as artisans, as slaves who had been captured in war. But warfare was the exception, not the rule, along the Rhine-Danube frontier. The Roman Empire declined far less from the shock of invasion than from the operation of economic and social forces within it.

The belief that the Germans were actuated by violent hostility to the Roman Empire and destroyed it in their savage wrath is a creation of the seventeenth century and is due to La Fontaine. The actual germ of La Fontaine's idea was a Spanish book, written in 1529 by Antonio Guevara, a Spanish bishop. It is a romance of the days of Marcus Aurelius, which Herberay, the Seigneur d'Essars, translated into French in 1576 under the title *L'Horloge des Princes avec le très renommé livre Marc-Aurèle.* This book, which is in no sense a work of history—was the source of La Fontaine's famous "Paysan du Danube," an epic fragment filled with the sentimentalism that so characterizes the poetry of the great fabulist. Here for the first time the type of the German enemy of Rome appears.

From La Fontaine, this new type of German passed into the thought of Europe, first into its literature, then with Montesquieu into its history. The very history of the word Gothicism is a commentary upon the historical misapprehensions of the eighteenth century. The epithet "Vandalism" was coined by Gregoire during the French Revolution. Then came the Romantic movement which popularized the new interpretation of the Germanic migration, most of all Byron. How many English readers' idea of the relation of the Germans to Rome has been formed upon the famous stanzas which portray the dying gladiator?

The great fables of medieval history, like the legend of Pope Joan; the tale that Gregory the Great destroyed the Palatine Library of the Cæsars; the burning of the Alexandrian library by Omar; the spurious Donation of Constantine; the legend—of modern origin, singularly enough—that medieval Europe believed that the world would come to an end in the year 1000; the romantic story of Blondel the minstrel, and the captivity of Richard Cœur de Lion; the story that the preaching of Peter the Hermit fired Europe in the First Crusade; the legend of William Tell; the devotion of Eustache de St.-Pierre during the siege of Calais in 1347—all these beliefs have long since been disproved.

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The legend of Pope Joan is first alluded to in a chronicle written by Jean de Mailly, a Dominican of Auxerre about 1250. The first historian who attacked the fable was Blondel in the seventeenth century, and Döllinger has effectually disposed of it.

The statement that Gregory the Great destroyed the Palatine Library of the Cæsars, founded by Augustus—a statement which Draper had the hardihood to repeat as late as 1861, is first met with in the *Polycratica* of John of Salisbury, who died in 1180, while Gregory I. died in 604. Even Gibbon, who was not partial to churchmen, declared that "the evidence of his destructive rage is doubtful and recent."

There were two Alexandrian libraries. The first, which was founded by the Ptolemies, and is said to have contained 700,000 rolls of manuscript, perished in the conflagration of the city when Cæsar attacked the fleet of Antony and Cleopatra in the roadstead of Alexandria in 47 B.C. The fate of the second collection, which was partly of pagan, partly of Christian origin, is almost as much shrouded in obscurity as that of the Palatine Library. It may have been destroyed during the great riot between the orthodox and Arian factions in 389, when the Serapeum, which is said to have housed it, was burned. It can hardly have had the wasting fate that perhaps befell its Roman rival, and it is certain that Omar's iconoclasm is a myth. With Gibbon's judgment modern historical scholarship concurs.

"The solitary report of a stranger who wrote at the end of six hundred years in the confines of Media is overbalanced by the silence of two annalists of a more early date, both Christians, both natives of Egypt, and the most ancient of whom, the patriarch Eutychius, has amply described the conquest of Alexandria."

The legend of the year 1000 concerning the termination of the world is of particular interest because it is of very late formation. There is no such thought in the chroniclers who lived at the time when this terror is said to have obtained. Contemporary annalists from the year 975 to 1050, Italian, German, French, English, all are silent upon this point. The private life of the best-known persons of this epoch gives no indication. There is not the least allusion to the terrors of the year 1000 in any biography of the time. Even the biographer of Robert the Pious of France, whose

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reign (997–1031) coincides with the memorable date of the year 1000, is silent. Michelet and his school make much of the preamble of charters and public acts of the time. But it is important to remark that these formulas, *Mundi termino appropinquante,* etc., were not invented in the tenth century, but had been common legal usages in various parts of France for centuries past in the execution of wills and similar documents. All the general information which we have relative to the last years of the tenth century demonstrates that Europe had no anticipation of the end of all things. On the contrary, in the ten years which immediately precede the year 1000, the councils of the Church were numerous, and there is no allusion to the alleged event in the findings of any one of them.

That favorite romance of our childhood, the story of the rescue of Richard Cœur de Lion, a hero dear to every reader of Scott's *Talisman,* rests on as infirm a basis. No chronicler of the time of Richard, or until four centuries later, speaks of the incident. The earliest mention is in a manuscript of the late fourteenth century. From this source the tale was first given currency in print by Fauchet, an antiquary of the time of Henry IV., in 1610. Blondel slept in Fauchet's dusty folio until 1705, when a clever French authoress, Mlle. Lhéritier de Villandon, published *La tour ténébreuse,* a romantic novel, in which she embellished Fauchet's source with inventions of her own.

It was in this novel that Sédaine found the theme of his opera, "Richard Cœur de Lion," first presented on April 21, 1784. The opera of Sédaine and the music of Gretry made the tale popular. Goldsmith is the first historian—if he may be so styled—who mentions the incident as a fact, though Wharton had independently come upon the account in Fauchet and given it currency. From these pages the story of Blondel passed into greater historical works like Mill's *History of the Crusades,* Michaud's *Histoire des Croisades,* Raumer's *Geschichte der Hohenstaufen,* and Martin's *Histoire de France.*

As far back as the middle of the eighteenth century Fleury wrote:

> For more than a century we have been disillusioned about the Crusades, and they are no more spoken of as a war against the Infidel, except in the writings of some authors more zealous than intelligent, and in the allusions of poets when they wish to flatter princes. Men of sense, enlightened by

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experience of the past and understanding the causes, clearly see that in these enterprises there was more to be lost than to be won, and more for the temporal than for the spiritual.

Yet an immense amount of erroneous belief still persists as to the Crusades, although no well-informed person today believes, or should believe, that the preaching of Peter the Hermit caused the First Crusade. Peter never had visited Jerusalem as claimed; his career was stained with violence and fraud; he was a poltroon and a charlatan. Modern historical research has left him a very dingy halo.

As to William Tell, only the most credulous of Swiss tourists believe in him. The story first appears in the sixteenth century. There is no record of a Gessler among the Hapsburg bailiffs. Moreover, the essential features of the legend are common to Norway, Iceland, Denmark, Holstein, the Middle Rhine, and England. The resemblance of the story to the narrative of the twelfth-century chronicler Saxo Grammaticus is striking.

The famous episode recorded by Froissart, of how Eustache de St.-Pierre and his devoted townsmen saved Calais from the wrath of Edward III. must also be consigned to the limbo of fable. The French scholar Bréquigny, in the eighteenth century, discovered in the archives of London evidence to prove that he was an English partisan and in receipt of an English stipend.

Modern history, in like manner, has been purged by the fire of historical criticism. The universal belief of the Protestant world of the sixteenth century that the Massacre of St. Bartholomew was premeditated is without foundation. The Grand Design of Henry IV. was a figment of the dotard brain of the Duke of Sully; the genuineness of the memoirs of Richelieu and Père Joseph is seriously doubted, and the memoirs of Talleyrand are a fabrication. Tilly was not responsible for the firing of Magdeburg and the awful destruction that ensued. Louis XIV. never used the famous words, "*Il n'y a plus de Pyrénées.*" The Spanish ambassador Castil dos Rios said something like it, and La Beaumelle, later, attributed it to the King. Even Voltaire, although Madame Deffand cast upon him the reproach of inventing history, was not deceived by this tale.

The epoch of the French Revolution, perhaps more than any other period of history, teems with popular misappre-

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hension. The traditional belief as to the abuses obtaining in the Bastille is a myth; *lettres de cachet* (writs of arbitrary arrest) were not issued in blank, and the monstrous abuse of police power for which the government of the *Ancien Régime* has so often been arraigned was not practised, in point of fact; the *Pacte de Famine*—the reputed attempt of certain ministers of the crown under Louis XV. to " corner " the wheat supply of France in the hard times immediately prevailing before the Revolution—is a bubble of the imagination; the famous Last Night of the Girondists during the Reign of Terror is a creation of fiction; the Terror government never proscribed Christian worship in the churches of France, or abolished Christianity. Cambronne did not utter the famous phrase, " *La garde meurt et ne se rend pas* " at Waterloo, although history attributes it to him and it is graven on the pedestal of his statue. M. Henri Houssaye's interesting little book, *L'Histoire d'un mot célèbre,* disproves it, and Cambronne himself ever denied it. The resounding word was coined by a happy phrase-maker, a newspaper man of Paris named Rougemont, on the very evening of the battle, and was printed in *L'Indépendant* on the following day.

The erroneous ideas prevailing with reference to the history of the Bastille are based exclusively upon three books, no one of which is worthy of the least credence: the *Inquisition Française ou Histoire de la Bastille* (1715), by Constantin de Renneville, the *Mémoires de Latude* (1790), and the *Mémoires sur la Bastille* of Linquet (1783). Of these three authors, the first was an agent of the French Government in Holland, who sold secrets of state, was tried, convicted, and sentenced to death, but whose sentence was commuted to imprisonment in the Bastille by Chamillart, the French Minister. He was set at liberty after the Treaty of Utrecht in 1713 and took refuge in England, where he wrote five huge volumes full of lies and calumnies, not only with reference to the Bastille, but also with reference to the Court and all France. His statements have been refuted, page after page, by the witness of original documents. As for Latude, he was a lunatic, and Linquet was an unprincipled journalist, an ex-advocate who had been disbarred.

The truth about this famous place of imprisonment in the eighteenth century is quite different from what is usu-

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ally believed. The Government did not use it as a place for criminals, and its inmates were confined there for reasons of state interest only. It was no dishonor to be imprisoned there. In fact, as the *Mémoires* of Madame de Staël show, imprisonment in it was not altogether a misfortune, for the victim became a nine days' hero and was sure of pleasant company, for the Bastille was a prison reserved for members of the aristocracy, the clergy, and high-class bourgeoisie. Upon its registers are to be found some of the greatest names of France, princes of the blood, cardinals of the church, marshals, illustrious writers.

The use of torture had been abolished in the Bastille in the seventeenth century, and when it was captured in 1789 by the mob no vestige of its employment was found. The government was exceedingly indulgent, allowing prisoners to have their own servants with them, whose keep it not only paid for, but even paid their wages. The relatives of a prisoner were sometimes permitted to stay with him in order to lighten his confinement. In 1693 Madame Lafontaine, thanks to the compassion of the governor, was permitted to have her husband and a servant with her.

The appropriation for the care of the prisoners was most generous, and graduated according to their social scale. For example, the governor received five livres per diem for a bourgeois, fifteen for councilor of Parlement, twenty-four for a general of the army, thirty-six for a marshal of France. When Cardinal Rohan was imprisoned there for his part in the famous affair of the Diamond Necklace, the governor was allowed one hundred and twenty francs per diem for his upkeep. The very fact that such a schedule existed is proof positive as to the class of prisoners. As to the daily fare, it is safe to say there was no prison like it in Europe. Renneville, although he disparages the *Ancien Régime,* admits that he had champagne and burgundy to drink, and hare and lobster to eat. Even Linguet, in spite of his wish to portray the suffering of the inmates of the Bastille, admits that the daily fare was good and abundant. Every morning the *chef* presented the *menu* to the prisoners for their approval. Finally the king clothed those prisoners who were too poor to clothe themselves, and they wore no prison uniform. We read of dressing-gowns trimmed with furs, of colored breeches, of silk doublets, of shirts that cost more than forty francs of our money,

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and good linen handkerchiefs. The *commissaire* was officially instructed to consult the taste of each prisoner as to the color, the cut, and the fashion preferred. The government even furnished pocket-money and tobacco to indigent prisoners. In their rooms the prisoners used to have pets of all kinds—cats, birds, dogs—and sometimes used to get up theatricals or musical entertainments among themselves. If a prisoner was ill, he was furnished free medical attention, or could have his private physician, if he preferred. One day when the Cardinal Dubois was examining the report of the governor, he remarked upon the unusual quantity of lavender allowed the prisoners, to which the Regent replied: "It is their sole distraction. Don't take it away from them."

During the whole reign of Louis XVI. the famous prison did not average more than sixteen prisoners a year, and most of them were only incarcerated a few days. From 1783 to 1789 the Bastille was so nearly empty that the government seriously considered closing it entirely. From January 1, 1789, to July 14, but one prisoner was admitted.

When Delauney surrendered at discretion on the famous day, the wild fury of the mob endeavored to wreck the structure within and without. The *Moniteur* describes how "*Un corselet de fer inventé pour rétenir un homme par toutes les articulations et le fixer dans une immobilité éternelle*" horrified the crowd, when as a matter of fact what the eyes of the maddened populace really saw was nothing but the corselet belonging to a suit of medieval armor that had once belonged to a collection of ancient arms in the Bastille. Likewise we are told of a machine "*non moins destructive, qui fut exposée au grand jour, mais personne ne put en déviner ni le nom, ni l'usage direct.*" As a matter of fact, the "fearful contrivance" was a little wooden printing-press that had once belonged to a prisoner named Lenormand, and had been seized by the government as evidence? Finally, at the bottom of one of the bastions, the crowd found the bones of some suicides which had been interred there, as was natural, since the law of the church forbade their interment in consecrated ground. But these remains were not so regarded by the excited populace of Paris. The Abbé Fauchet pronounced an oration upon these unknown "victims" of Bourbon tyranny, and Mir-

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abeau uttered the terrible words: "*Les ministres ont manqué de prévoyance. Ils ont oublie de manger les os!*"

The romantic aura hovering around the history of the Girondists must be considered as for ever annihilated since the appearance of M. Edmond Biré's *La Legende des Girondins.*

It was inevitable that fiction should seize upon their history. In 1831 Charles Nodier published the *Dernier Banquet des Girondins,* a work of pure imagination, but full of passion and flaming eloquence, which founded the legend of the banquet. Contemporary memoirs make no allusion to it.

Honoré Ricuffe, the author of the *Mémoires d'un Détenu,* was imprisoned with Vergniaud, Brissot, and others, and has left us a circumstantial account of their last hours. There is not a word in his writings of the alleged banquet of the Girondists. There is no trace of it in the Revolutionary newspapers. Sixteen years later the drama further distorted history. On August 3, 1847, the famous play, *Le Chevalier de la Maison-Rouge,* of Alexandre Dumas, appeared, in which the last banquet is the climax of the play.

In the same year both Louis Blanc and Michelet published the first volumes of their respective histories of the French Revolution. Each, in writing of the Girondists, followed the tradition, Michelet in particular, who was the first to give the authentic word to the Last Banquet, which really has no place outside of the novel of Charles Nodier.

Finally the wreath of honor and the crown of martyrdom were conferred upon the Girondists by Lamartine in his famous *Histoire des Girondins.* As an example of how history should not be written, these eight volumes are classic. Errors of fact abound; contradictions are to be met with upon almost every page; the Girondist leaders are cast in heroic mold and represented as a sacrifice to the implacable Montagnards. The work is a panegyric abounding in passages of dithyrambic intensity, in word pictures of wondrous color and of such marvelous eloquence that the reader is so enthralled that he fails to see the historical errors and the intense partisanship of Lamartine.

The revolution of 1848 confirmed the Girondist legend in the popular imagination. When the Orleanist monarchy was overthrown, a new republic came into being with the

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"Chant des Girondins" as its "Marseillaise." The striking popularity which Lamartine at this moment enjoyed metamorphosed the leaders of the Girondist party into figures of heroic proportions. The press, the university, and every public orator lauded their deeds. Ponsard, on the stage of the *Théâtre* transformed the Girondists' leaders into the heroes of Corneille, and made of Vergniaud a new Cid.

Thus we see that the liberal democratic school—the Revolutionists of 1830 and 1848, historians, dramatists, and novel-writers of the Romantic school—had all united to erect the memory of the Girondists into a cult. Even monarchist historians of the Second Empire, like Barante and Mortimer-Ternaux, were deceived into believing the legend to be actual history, and drew their interpretation of the course of the Girondists from the pages of Michelet and Louis Blanc.

Lamartine tells us that he had seen with his own eyes the inscriptions written upon the walls of their prison; that he had touched with his own hands letters written by the hand of Vergniaud and with his blood. Michelet also saw these, unless perchance he was content to copy Lamartine. But the tradition which inspired Lamartine and Michelet was completely in error. Neither Vergniaud nor any of the Girondists were imprisoned in the Carmes immediately before their appearance before the Revolutionary tribunal. Grannier de Cassagnac has traced the itinerary of twenty-one of them in detail through the prisons of Paris, and their course is clearly to be followed in the official registers of the prisons. All were imprisoned in the Conciergerie, the Abbaye, La Grande Force, or the Luxembourg. Not a single prison register records the incarceration of any Girondist in the prison of the Carmes, and the records of this prison make no mention of them there. The famous inscriptions in the Carmes are, therefore, not to be attributed to Vergniaud and his fellows.

The "*Potius mori quam foedari*," that courageous Breton motto of the Middle Ages, attributed to Vergniaud and written "*avec du sang*," according to Lamartine, is actually written in ink, which has reddened through oxidation. The extract from a passage of the *Imitation of Christ*, in which Lamartine claimed to recognize the handwriting of the Abbé Fauchet, is simply an inscription painted upon a board. Undoubtedly it was a possession

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of one of the sisters who had formerly occupied the convent.

We come now to the tradition of the Last Banquet. "Their last night," says Thiers, "was sublime." Lamartine in his turn lavishes upon this scene all the colors of his incomparable imagination. Michelet is more restrained in his description, but he, like Lamartine, is writing romance and not history. In one point he is curiously particular. He assures us that the dinner was provided by a friend, whose identity is revealed by Lamartine and Charles Nodier. He was Baileull, a colleague of the Girondists in the Legislative Assembly, who was proscribed with them, but escaped death. But Baileull was imprisoned from October 9, 1793, to August 8, 1794. Obviously, he could not have been able, on October 30, 1793 to provide his friends with the repast which they are reputed to have enjoyed. As Grannier de Cassagnac truthfully observes: "This banquet, these wines, these flowers, these candles, these speeches, everything, in short, is purely and simply a fable."

If the reader who has followed thus far wishes to pursue the thread of this discourse, let him read M. Anatole Le Braz's charming study upon Châteaubriand entitled *Au pays d'exil de Châteaubriand*. M. Le Braz has attacked the question of Châteaubriand's exile in England, and the reader will find that in his life there, as Châteaubriand has written it, there is more of *Dichtung* than of *Wahrheit*.

The mists of time transfigure. It is the nature of the human heart to weave traditions and legends around men and events. For, like Wordsworth's "Reaper," we all of us at times find charm in

> Old unhappy far-off things,
> And battles long ago.

And yet, is there not as great a charm in that exquisite presentation of the truth which is, as Fustel de Coulanges finely said, the chastity of history? "Human affairs," said Richter, "are neither to be laughed at nor wept over, but to be understood."

James Westfall Thompson.

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MADAME DE STAËL

BY FLORENCE LEFTWICH RAVENEL

One of the subtlest of recent critics, Mr. Paul Elmer More, has suggested a new theory of the feminine genius, which has at least the merit of setting the woman's gift clearly and sharply apart from that of the man. From his analysis of Christina Rossetti—a wonderfully penetrating and sympathetic study, by the way, of that rare and elusive spirit—Mr. More concludes that the peculiar passiveness of her mental attitude, her joyless acquiescence—the "everlasting yea" with which she meets the hard decrees of Fate and the tyrannous demands of life—make of this singer of lovely dirges the most perfect and satisfying type of genius in woman.

And though, at first sight, this judgment might seem but an unwarranted generalization of the critic's own fastidious and academic taste, yet there are not wanting intimations that his view is shared, more or less consciously, by men of quite other sorts and conditions. For man, with his urgent impulses and passions, has always loved to think of woman as in all things ideally his opposite—the embodiment of that dream of serenity and peace, of unruffled calm of flesh and spirit, which he is destined to long for and to seek after but never to find.

After all it would seem that this is a question of fact and not of theory. Our query is not, Does this idea satisfy a deep craving of the masculine heart, and establish a more perfect symmetry, so to speak, in our conception of the respective qualities of men and women? but, Is it *true? Have* those women who have graven their names most deeply in the heart of the race—have they been great by virtue of this spirit of resignation—of a passive acceptance of the established order of things and their own part in it?

Mr. More's estimate of Christina Rossetti needs, I think, no qualification. In her, as in her brother, the mingling of

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two different strains has resulted in a talent of unique distinction. For sheer depth and purity of poetic inspiration, combined, as this is in her best work, with a complete mastery of her peculiar medium of expression, I know not her peer among women. Nor is she quite alone of her species. There are others who, set apart by the law of their own nature from the noise and hurry of the active world, have wrought out for us in solitude and silence the substance of their vision of life. Of Eugénie de Guérin we must all think—another creature of twilight and shadow—of strange renunciations, of unexplained but unquenchable tears! But even so, dare we affirm that this their spirit of "surrender to the powers of life" is indeed the most elemental note of the feminine genius? There is surely another type of greatness, another feminine attribute, to which at least an equal place belongs. That quality, I mean, which has made of the woman, in soul as in body, from the beginning of time, the "Mother of all living." Joan of Arc, with her "visions" and her "voices" for the night; her sword, her armor, and her intrepid front for the noonday; St. Teresa rousing herself from rapt contemplation of ineffable mysteries, to intrigue, dispute, contrive like the wiliest Jesuit for the privileges of the order she had founded—what were they, after all, but incarnations of the spirit of motherhood—protecting, brooding; by turns tender and terrible, fulfilling toward a larger world, with its greater needs, an office not unlike that of humbler mothers everywhere.

One might, indeed, reproach the woman with the lack of those very qualities in which Mr. More finds her peculiar strength. A certain incurable haste and fever, an incapacity to sit apart and wait until the time is ripe; a perennial immaturity and lack of finish—in these her critics have been wont to see the fatal weakness of woman's work. But I should be bold to claim for the truly representative women of all ages a great unselfishness—an obsession with the wrongs and sorrows of mankind, a passion to help and succor, which many faults and imperfections cannot surely discredit or outweigh.

In other words, it seems to me that genius in a woman is more nearly allied to and dependent on personality than in a man; so that it is very much harder for her to be great in spite of *herself*—of her character—than for him. Goethe's well-reasoned, deliberate, and unrelenting egoism and cold-

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ness of heart are unthinkable in a woman—allied as they were in him with a real benevolence, unerring judgment, and a truly God-like vision of men and things. No, we must be content to have on the one hand a Christina of Sweden, or on the other a St. Teresa—we shall find no combination of the two.

And therefore the woman of past times is, as a rule, much harder to know than the man. Few women have left to posterity direct and tangible proof of their intellectual and artistic achievements. For the most part, their fame comes to us as an echo—a rumor passing down from age to age by the fragmentary and uncertain witness of men, whose praise or blame takes on, in the lapse of centuries, a strangely hollow and artificial tone. The great masterpieces of men stand, as they must, in their own strength, but, lacking these, who shall reproduce for us the magic of the woman's look and voice and gesture?—that once set throbbing the heart and brain of whole generations—and now, alas! is dead even as they are. With few exceptions the woman's genius survives, if at all, only as it is reflected in the hearts and imagination of men.

Among the few women whose literary productions have claimed, and perhaps deserved, a permanent place by the sheer force and originality of the ideas they convey, no one can be compared, I suppose, with Germaine de Staël, born Necker, the daughter of Swiss parents, though herself born in Paris, 1766.

This little Protestant girl was born into a strange world. Audacious theories, bold speculations, are not in themselves alarming, but here was a society which stood ready to translate its wildest dreams into every-day fact. It was this child's lot to be born when and where the current of modernism was strongest and most turbid. It was the France of the Encyclopedia, of the *Contrat Social,* and of the famous salons; the France still of Voltaire and Rousseau, and soon to be the France of Robespierre and the "Terror." And the words "born into this world" may here be taken almost in their literal sense, for at four years old the small Germaine was already, we are told, a well-known figure in Mme. Necker's salon, and the vision of the tiny, quaintly dressed baby, seated among the guests on her own low stool, is not more humorous than pathetic, especially when the little image one day opens its mouth and launches full in the face

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of the most distinguished person present, so runs the story, the ominous question, "M. de Marmontel, what, pray, do you think of love?" Even in childhood this child thought too much of love. The romantic attachment of M. and Mme. Necker was proverbial in frivolous, cynical Paris—the more so, perhaps, that Mme. Necker's character was to the last degree antipathetic to the French, and a dream of married happiness such as her parents had known haunted Germaine throughout her whole career, an ideal which had about it always a taint of the morbid—not to say of the mawkish. Not for nothing had she been a daily witness of the excessive self-effacement of the wife, of the laborious, almost anxious tenderness of the husband. It was all admirable in its way, no doubt, but it was *their* lot; it was never to be hers, though the memory of it, the longing for it, were perhaps the underlying cause of some of her most fatal errors in the conduct of her own life, as well as of the tone of melancholy and disillusionment which is never far below the surface of her most enthusiastic mood.

That famous saying of hers, "Glory can never be for a woman anything save a splendid mourning garb, worn for the happiness she has lost," is a striking bit of picturesque phrasing. It has served as text for many an exhortation against the ambitions of women, for whom "glory" was the last and remotest of perils. But the worst of it is that the maxim is not *true*. It was not true for Germaine Necker; for glory, *real* glory, remains after all, as Renan has said, "that which in this world is least likely to prove to be vanity," and at her heart's core no one knew that better than she. The life of the affections alone would not have satisfied her; and how can we picture the woman who for fifteen years steadily resisted the will of Napoleon himself—how can we fancy her spending her days in contented obscurity, in the shadow of a husband, however excellent and devoted? She was much better—nay, much happier—in her high and courageous loneliness.

Moreover, no woman ever lived who would more thoroughly have enjoyed and profited by the modern freedom and rational independence of her sex than Germaine Necker. Her claims to good looks or physical attraction of any sort were of the smallest, though her biographers would fain persuade us of the contrary by dwelling upon the power and beauty of her great, dark eyes, upon her shapely

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hands and arms and stately carriage. If she could have been set free once for all from that inordinate appetite for admiration, for approbation, which laid her bare to every random shaft of ridicule and malice, many rough places might have smoothed themselves, many crooked paths grown straight before her feet.

But theoretically, at least, she adhered all her life to her mother's maxim: "It is the man's place to brave public opinion, the woman's to submit to it." Mme. de Staël remained always the "great lady" of genius.

To the mere looker-on, the France of the eighteenth century might seem pre-eminently the woman's age and country. No doubt they wielded a real power—those brilliant women of the great salons who made and broke reputations and careers with an epigram. But all this influence and popularity were not without price. They were bought by the most unscrupulous intrigues, political and social, on the one hand, and on the other by compromises of honor and dignity and decency, which even after two hundred years fill one with a sort of physical disgust. This was Germaine Necker's world, and from its moral contagion she could not wholly escape, any more than from its false and artificial standards of taste and its rather hectic intellectual activity. But in great issues, when her own passions were not involved, in the decision of great questions, this woman's courage, her will to look the truth in the face, her far-seeing, incorruptible resistance to the current that was sweeping France (and after her all Europe) into the grasp of a military despotism—all these things belong to a spirit divinely free—we may almost say, to the only free spirit left in a Europe where Goethe lived and practised his bows to the Grand Duke, and in due time even made graceful speeches to the great tyrant himself.

Advanced views prevailed in the Necker circle, but they did not apparently have any influence upon the parents' plans for their daughter's establishment. Germaine—already very much of a person—brilliant enough, disquieting enough, to give wiser parents pause—Germaine was married at twenty to the Baron von Staël Holstein, Swedish Ambassador to France. A well-bred, well-disposed, but somewhat light and insignificant sort of person the baron, whose Protestantism, together with his rank (the latter appealed strongly to Mme. Necker), seem to have

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been his chief recommendations; but the marriage was probably quite as happy and respectable as the majority of such arrangements in that time and world. There was never any open scandal, and, though after a number of years a separation was agreed upon, the motive seems to have been financial—De Staël was a terrible spendthrift—rather than moral. The three children were brought up to respect both parents, and finally, when their father was old and ill, his wife went to him and nursed him faithfully till he died. So much her respect for tradition and public opinion could accomplish, but Germaine's heart was never in this marriage, and hers was not a heart to be left out of account with impunity. For she was a creature of the tempest, such as the eighteenth century, the age of Reason, loved to bring forth, in mockery of its own pretensions—one in whom a strong will, religious scruples, habits of self-control and of calm judgment were overborne and swept away in an instant by an onrush of tumultuous emotion.

She had one or two transient fancies in her youth, and then, when her hour was fully come, she fell a victim to one great and most unhappy passion which laid waste her heart and dragged its slow and poisonous length across the eight best years of her life. It was not an abject or degrading passion; its appeal was not chiefly to her lower nature; but none the less surely, for the sort of perverted exaltation that disguised it, did this untoward love sap the very springs of her inner life.

Germaine de Staël's long connection with Benjamin Constant is one of the famous love affairs of history as well as of literature, as famous as that of De Musset with George Sand, though very unlike it. One side of this story—the man's—is narrated at length and in minute detail in *Adolphe,* Constant's only novel, which is a masterpiece of impersonal, detached self-analysis and self-revelation, and leaves the reader divided between a somewhat breathless admiration of the author's unexampled candor and psychological insight, and a sort of horror of the coldness and aridity of the nature laid bare. On the woman's side the record is not less plain for him who has eyes to see. In the imaginative works of Mme. de Staël's maturer years love appears, not as the innocent idyl of youth, nor yet as the more or less culpable pastime of men and women

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of the world. Love for her is henceforth tragedy. It is the chronicle of the woman's always losing battle—of the woman struggling single-handed with tradition and prejudice—above all, with the incurable feebleness and inadequacy of the man's soul. She judged (as we all judge) by what she knew. A tone of almost monotonous depression and discouragement pervades her two once famous novels, *Delphine and Corinne.* But whenever this woman could escape from the narrow range of personal loves and hates, hopes and fears, when she could make good her entrance into the larger world of thought and ideas, how swiftly did the key change! Then her tears dried of themselves in the white heat of her righteous wrath; she shook off her pose of half-conventional melancholy, and went forth joyously to take her part in the great "liberation war of Humanity."

Woman has been always generous, it seems to me, in according to man everything that he desires to fulfil his own ideal of himself. But it must tax her patience sometimes, one would think, to see him calmly, without scruple or remorse, gather with a sweep of his arm into his own portion all the nobler qualities of the soul—simply by calling them masculine. One would scarcely apply that epithet to Mme. de Staël, to her character, or to her achievements, unless indeed there be no other word to describe strength, frankness, courage, and a noble disinterestedness in the pursuit of truth; and in her these qualities seem not coldly intellectual, but rather emanations from a great generosity and benevolence of nature, a deep-lying faith in humanity which even the horrors of the Revolution could not discourage, and which made life worth while in the darkest hours of anarchy or despotism. In her last days Mme. de Staël said that she had had three great loves: God, her father, and Liberty. And it may well be that as she grew older these three seemed more and more to merge themselves in one great benignant and wonder-working power—a glorious trinity which spoke to her ear with one voice, forbidding her to despair of mankind or of the world.

In the early years of the Revolutionary period, Mme. de Staël's salon of the Swedish Embassy in the Rue du Bac was at the height of its vogue, the most brilliant in Paris. Men of every nation, of every shade of opinion, were gathered there, and absolute freedom of thought and speech was the distinguishing note of their intercourse. But the

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hostess was the real center and inspiration of those memorable reunions, of which many reminiscences have come to us, but no adequate description—none at least that conveys to us even faintly the effect produced by Mme. de Staël's conversation nor the qualities which set her as a talker apart from all others.

A dark-skinned, thick-lipped woman, without beauty, heavy alike in feature and figure, and with a style of dress that betrayed a love for the picturesque rather than a true Parisian's sense of harmony and grace, she yet possessed a wonderful and compelling charm. A magic spell, it seemed, that for the time transfigured her whole being and held her hearers breathless and enthralled; while for those who came habitually under its influence this conversation of hers grew to be an urgent need, a sort of element or atmosphere without which their spirits languished and grew faint. Indeed, she was very unlike, in many ways, the typical hostess of a salon in the eighteenth century. For most of those shrewd and clever women the holding of a *bureau d'esprit* was a matter of business. They were seeking success in some form, literary, political, social, and always with a purely personal, selfish aim. But here was one woman to whom the Revolution was a sacred thing, a great and splendid revolt of the human spirit against the powers of darkness. She believed in the might and efficacy of ideas and in the essential goodness of human nature, and at least in her earlier years she was a true daughter of that age to which Voltaire had taught freedom of thought and contempt for tradition, and Rousseau the return of a primitive state of innocence unspoiled by the artifices of civilized life.

Much, therefore, that might seem perhaps, in this cult of the idea and of the spoken word, like mere intellectual fustian was to Mme. de Staël the very stuff of which life is made. She was capable, we know from many witnesses, of exquisite graciousness, of infinite delicacy and tact in reassuring and fostering the timid, and she gloried in the strength of a worthy antagonist. But, after all, conversation was to her verily the sword of the Spirit, worthy the best efforts of the loftiest minds. And so, at the close of one of those famous evenings of hers, when the subject had been tossed from lip to lip among the speakers and played upon in turn from every angle of vision, it was her wont,

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we are told, to gather up the scattered threads of the discussion and hold the great thought for a little while in her own hands, as if for a final shaping and polishing, that no aspect of it might be lost or obscured when it went forth to do its work among men. Thus, without bitterness or contention, did she set her mark upon it—seal it with her own seal.

Upon this magnanimous if somewhat unpractical group of theorists the awful events of the Reign of Terror fell with a shock as of a crumbling world, and for a season the most optimistic were dumb. This, then, was the outcome of the rule of Reason, such the first fruits of "liberty, equality, and fraternity!"

With Mme. de Staël compassion was responsive to every call, and for her it was never a sterile emotion, but a veritable passion to help and save all whom her arm could reach, without respect of person or party. Her position as wife of the Swedish Ambassador made her, for a time at least, comparatively safe in Paris, and she used her official immunity, her old prestige as Necker's daughter, and one whose liberal sympathies were well known—she wore all these pretexts threadbare—and her woman's wits, her social experience, and tact besides, to snatch from death one and yet another human creature whose only claim upon her was his desperate need. Again and again did she penetrate to the secret councils of the Convention to plead for some life and exhaust every resource in her appeals to Robespierre or Tallien—and rarely, it must be added, in vain. But the "Terror" went its way to its appointed end, and after a year of unwilling absence Mme. de Staël returned to Paris to confront her great enemy.

Back to Paris, still a city of waking dreams, to whose generous enthusiasm all things seemed possible, came also the great Realist. He came in a blaze of military glory followed by his victorious legions, and the legend of his Italian campaigns, the first canto of the great epic of European conquest, was well fitted to inflame the quick imagination of the French, in whom love of glory has always been the one enduring passion.

To Mme. de Staël Napoleon's unique and essentially Latin genius appealed at the first with extraordinary force. In him she believed all the great principles of the Revolution were to triumph, were to receive their final

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consecration, in the glorious peace which a liberated France was to impose, by his hand, upon the world. She was young, too, and a woman who had no reason to distrust her own powers of attraction—powers so hard to divine to-day behind the crude colors and harsh outlines of her pictured face and form. It may very well be that in her patriotic zeal there mingled some alloy of personal ambition and vanity—in fancy she saw herself perhaps the guiding star of the great Ship of State, the inspiring muse of the hero, and through him the arbiter of Europe. But very soon her faith began to falter—partly, no doubt, because of Napoleon's rough and tactless rejection of her advances, but more and more from a sort of dumb terror and distrust which the great man's demeanor was well fitted to arouse in one like Mme. de Staël. She ascribes her growing antagonism to her father's example and teachings, but it goes deeper than that—rooted, no doubt, in her half-conscious intuitions, her unreasoned perception that this man was the predestined Arch-Enemy of ideas, the great Opportunist, whose deep and scornful knowledge of men had taught him to rule them through their weakness and meanness rather than by an appeal to a soul in which he did not believe. These two were foes inevitably and irreconcilably; any truce between them must have been hollow; and the woman, not without protests and appeals, finally accepted the situation.

Mme. de Staël has been blamed for her perpetual and often rather querulous complaints and lamentations over her exile and her adversary's implacable hate. But less has been said of the note of almost childish petulance in Napoleon's chidings and reproaches of Mme. de Staël. So inconceivable to him was the force of moral convictions that he seems never to have doubted that this troublesome woman could, if she only would, make it up with him and his régime at any time and live good and happy ever after. Once assured, however, that he could neither cajole nor compel her, he determined to be rid once for all of a hostile influence he did not overestimate.

With the issuing of the consular edict which banished her to a distance of forty leagues from the capital begins for Mme. de Staël the long period of exile—so dreary, wearing, and humiliating to her proud, ardent nature; so refining, chastening, and developing to her mind and soul. Freed

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at last, against her will, from the absorbing interests of Paris and of her own people, she had leisure to become aware of the great world-forces working themselves out in other ways among other races of men; and it may be said to Mme. de Staël's great glory that hers was the first French mind (and the list of those who come after her is not long) which lifted itself to a European point of view. Her half-foreign ancestry, her Protestant faith, even her abhorrence of the régime in power in her own country—all these may be counted for something in her detached and impartial attitude, but these are not enough by themselves. She was really seeking truth and light, and could by no means find rest in lies, however specious. For her *liberty* meant first of all the freedom of the spirit, and how could she fail to perceive that in unprogressive, phlegmatic, prince-ridden Germany men's souls were often freer than at home? It is this peculiar openness of mind and singleness of heart that give distinction to her views. She was not without vanity, as we know; her early training had fostered an almost morbid craving for excitement and social diversion, and her hatred of Napoleon no doubt made her often unjust both to him and to France—for which, nevertheless, she longed with inextinguishable desire. But over and over again was she offered all the privileges and rewards which the Empire had to bestow for some trifling concession—a few words celebrating the Emperor's latest victory, a paragraph of flattering prophecy on the occasion of the birth of the Prince Imperial. And she always refused, while so many of her ancient comrades, sometime apostles of Liberty, found their account in compromise with the powers that were! Constant, Talleyrand, and other smaller men found, at one time or another, some middle ground on which their old principles and present interests could walk without unduly jostling one another. But Mme. de Staël could see only one way, and that led her now across the Rhine. And this reluctant pilgrimage was the climax and consummation of her career. By the mere act of going deliberately into remote exile she made it plain that, while Napoleon might blockade England, bully Germany, and threaten Russia, his power came to a halt at the door of one will, one conscience.

Weimar, whither she betook herself, note-book in hand, as fast as the clumsy coaches of the time and the manifold

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delays incident to travel would permit, was emphatically a man's world; the woman's part, even in courtly circles, was restricted to that of listener, or at most of unobtrusive accompanist to the masculine performer. But in every situation into which life had led Mme. de Staël hitherto, she had always stepped into the first place as by divine right. The flare of the limelights was dearer to her than sun, moon, and stars, and—a point of still greater importance—she was used to the almost exclusive society of men, and liked it. Here for her was an interesting programme, days and nights abounding in stimulus.

It is hard to be quite as sorry for Mme. de Staël as she seems to expect when we recall the men with whom, during her sojourn in Weimar and Berlin, she spoke familiarly face to face. Besides the Grand-ducal family of Weimar, who appear unaffectedly to have loved and admired her, she made acquaintance with the brothers Schlegel, with whom her intercourse ripened into close and intimate friendship, with Fichte, Schelling, and Schiller, and finally, after some solemn coquetting on the great man's part, with Goethe himself. And in spite of some national and personal prejudice and misunderstanding they all in the end came to like and esteem her sincerely. What these Germans saw in her first was her limitless craving for discussion, a somewhat disconcerting appetite for this people of heavier brain and slower speech; but then they saw, too, her transparent simplicity and honesty of mind, the piercing clearness of her intellectual vision, and her absolute generosity and good faith. Both in Weimar and in Berlin Mme. de Staël was a success.

Weimar was very well as an interlude, but it could be for her no "continuing city." She was drawn back to France as by invisible cords, although the Emperor, far from forgetting her in her long absence, seemed to exercise his ingenuity in devising against her new measures of petty and harassing persecution. Her home at Coppet was very lonely now, since her best friends no longer gathered about her there, held back either by their fears or by direct prohibition and penalty. And so once more she took up her dreary march—up and down, to and fro, through that Europe which year by year contracted about her, until it seemed that soon no spot of free soil would remain where she might rest the sole of her foot. More and more closely the Em-

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peror's net enmeshed her, till at last her thoughts turned in all seriousness to the great free Republic across the sea as a final refuge for herself and her beloved children.

The fall of the Empire in 1814 summoned her back to Paris, but it was in no festal mood. In spite of all she had said and written in dispraise of France, she was far too true a Frenchwoman to rejoice in a personal deliverance that meant defeat and humiliation to her country, and it was quickly brought home to her that the enemies of Napoleon, whom she had indoctrinated and encouraged in her exile, were, under a very thin veneer, the enemies of France and of the liberty that she loved. Her personal glory was at its height—kings and potentates consulted and treated with her as with a European Power, but her strength was broken, if not her spirit. For years Mme. de Staël had suffered from a lingering and painful disease. In 1817 in Paris, surrounded and consoled by her children and her friends, she died, in the full maturity of her powers and at the height of her fame. She is buried beside her parents at Coppet, the home of her exile, and the place which more than any other is bound up with her fame and her active and agitated career.

But Mme. de Staël's books! the row of substantial volumes that bear witness to her industry, her many-sided interests, and her one-time popularity—they have certainly grown old and become difficult reading—had grown difficult, indeed, before the last of that generation had passed away which had been nurtured in her ideas. Sainte-Beuve, protesting loyally against the neglect into which she had fallen even in his day, prophesied that she would have her revival; and men may indeed go back to her; but it will scarcely be as they go back to Pascal and Bossuet, or even to Voltaire and Rousseau—not for pleasure, nor for that subtle heightening of the emotions, that sense of the enlargement of the bounds of life, which is the ineffable gift of the great masters.

We cannot reproach her with the absence of an independent and original system of philosophy. In this respect Voltaire was but little better furnished than she, and Châteaubriand very much worse. She was the child of her age. She utters the great doctrines of the eighteenth century—its theories concerning liberty and progress, of the

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freedom of the will and of the goodness of human nature. She gives them to us unchanged in essence, but touched and vivified by that infusion of warm and generous emotion which she called *enthusiasm* and which remains the most characteristic note of her teaching. Critics and historians have done their best for Mme. de Staël when they have spoken of the general "nobleness" and "elevation" of her writing. The truth is she has no sustained style, her books no structure, in the technical sense. She has eloquence sometimes, often emotion; often also she finds vigorous and original utterance for isolated reflections or sentiments. But in narrative, exposition, or description of any length or scope she falls into abstract, inaccurate, and commonplace forms of expression; her thought, her image, reaches us without sharpness of outline or vividness of color, the whole effect dulled and blurred by an instrument not finely tempered enough for its task. The supreme gift of "the Word" was not hers, and among all French authors of anything like her importance she is probably the least read.

Her earlier works the "Essay on Rousseau" and that on the "Passions," and her first real book, that on *Literature,* in which she applies to the history of letters the favorite doctrine of the eighteenth century, the theory of perfectibility, or, in other words, of the perpetual and uninterrupted progress of the human race toward perfection—these essays are all full of acute personal observations and fruitful suggestions; but to the modern reader they are made almost inaccessible by their confused and incoherent arrangement and their heavy, unattractive style. The popularity of *Delphine* waned early, but the fame of *Corinne* is attested by the praises and the tears of two generations. For Corinne is Mme. de Staël's ideal of herself, and the story of that brief, beautiful, and most sorrowful career, her ill-starred love and untimely death, are told with a tragic sincerity and poignancy that strike home even yet through all the clumsy guide-book setting.

Despite its limitations, despite the strong anti-Imperial bias which often obscured her judgment of men and events, the *Considerations Concerning the Revolution,* her last and unfinished book, is certainly Mme. de Staël's maturest and soundest political utterance, though in originality and general interest it does not equal the book *On Germany.* That

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a woman and a Frenchwoman at the opening of the nineteenth century should have ventured upon an interpretation of modern Germany remains one of those anomalies which confront us now and then to remind us of the futility of cut-and-dried rules and classifications, and of all "pigeonholing" in general. The work is a remarkable and, on the whole, measurably successful *tour de force,* and, though it is not, I suppose, a great book, it could have been written only by a great woman. In the light of subsequent events her characterization of the German people is, of course, inadequate—based upon insufficient knowledge and rash generalization, and as a whole it is now little read. Yet its pages abound in just and generous appreciations, incisive criticisms, and keen moral insight, as valid to-day as when they were first penned. And, indeed, turn where we may among the writings of the French critics and moralists of the nineteenth century, our eye falls inevitably upon the name and the thoughts of Mme. de Staël—thoughts grave, wise, profound as the utterance of an ancient oracle, illumined sometimes by a lightning flash of intuition that penetrates to the heart of things, with a thrust so keen, an aim so sure, as to have all the effect of inspired vision.

Time is the only just judge. His verdict is always vindicated in the end.

To leave no consummate and immortal literary monument, after a whole life spent in the single-minded service of truth and freedom and beauty! What harsher sentence could fall upon this aspiring, earnest, ardent spirit, so full of confidence in herself and in the value and urgency of her message? And yet let us not rashly pity her. For even setting aside the direct political influence which she exerted in her own time, there is not one of all the men and women, her peers, who lived their full and fruitful lives in those stirring, heart-searching times—not one, I believe, save only the great Emperor himself, who is to-day as intensely alive in the world as Mme. de Staël.

FLORENCE LEFTWICH RAVENEL.

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THE BOOK OF THE MONTH[1]

BY F. M. COLBY

It is hard to see why M. Pellissier should have lashed himself to Shakespeare in this hostile intimacy. Probably no other English poet could have been found, except perhaps Browning, who would so essentially offend his trim, modern, Gallic intelligence, and one would think M. Pellissier, after yawning through a half-dozen of the plays, would have smiled or cursed according as his impulse prompted, and thrown the rest of them away. Instead of that he has dragged his incompatible mind not only through the whole length of Shakespeare's dramas, but over a large area of the dullest Shakespearean criticism as well. It would seem heroic if it did not seem unnecessary. It is as if, on meeting a woman whom he particularly disliked, he had straightway married her and then taken notes for the next ten years in corroboration of his bad opinion. Never was a man more diligent in dislike. He has turned the plays inside out for evil instances and he has gathered them in awful heaps—bad puns, platitudes, pleonasms, contradictions, incoherencies, bombast, fustian, mixed metaphors, and bungled plots—in short, every fault of style, structure, character analysis or moral teaching that a life-long, conscientious hater of the bard could lay his hands on—and as they are all rendered in perfectly commonplace modern French, they present a sorry spectacle. As honest and thorough a job in damnation as has been done in many a year, and for that reason very interesting. Any one who really hates a poet will find here an admirable illustration of the way to go about.

First of all, the outrageous liberties which Shakespeare takes with the sacred unities of time and place and action. M. Pellissier professes to be more liberal than Aristotle in

[1] *Shakespeare et la Superstition shakespearienne.* Georges Pellissier. Librairie Hachette et Cie. Paris. 1914.

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that matter, but his nerves go all to pieces amidst the riotings of Shakespeare. Why, there are seven changes of place in the second act of "The Two Gentlemen of Verona," and six in the first act of "Coriolanus," and thirteen in the third act of "Antony and Cleopatra," ranging over three continents, all that was then known of the surface of the globe! And as to time, in some plays the action is supposed to run for years, which is manifestly incredible, while in others it is telescoped into so tight a compass that villainy has no chance to germinate or passion to expand. How is a character to develop in three hours? How could the events of "Measure for Measure" squeeze themselves into a week? Fancy M. Hervien doing such a thing, or Donnay, Mirbean, Brieux, Capus, or even Rostand. Macbeth could not have become so ambitious as he was in four days, or Othello so jealous. In "The Tempest" Prospero puts Ferdinand to the trial by making him heave logs and finally releases him and rewards him with the hand of Miranda in these words:

> All thy vexations
> Were but my trials of thy love, and thou
> Hast strangely stood the test. . . .
> Then, as my gift, and thine own acquisition
> Worthily purchased, take my daughter—

But says M. Pellissier, watch in hand, how long has Ferdinand actually been at this log business? He did not lift a single log till after the close of the first act, and he left off logging immediately before the beginning of the fourth. Thus his logging activities could have lasted no more than a single hour! Considering what the Charity Organization demands of a tramp in return for a night's lodging, Ferdinand was grossly overpaid.

Although he found the logs very heavy, would an hour of that work suffice, as his father-in-law said, for the "worthy purchase" of Miranda?

The matter seems all the more unpardonable when Prospero's lines are rendered in such words as these—

Les tourments que je t'ai infligés devaient éprouver ton amour; tu les as merveilleusement supportés, etc.

On the other hand, the action of the "Winter's Tale" skips sixteen years and the figure of Time appears on the stage and "without any scruple" tells the audience what has happened. Yet in this very play Shakespeare rushes the

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King into a jealous fit more suddenly than M. Pellissier has ever seen a jealous fit come on.

Then many of the plays tell several stories at once. "Cymbeline" tells three, and so does "The Taming of the Shrew"; "King Lear" tells not only the tale of the old King betrayed by his daughters, but that of Gloucester betrayed by his son; "Timon of Athens" breaks off when it is about half-way through, and takes Alcibiades for its new hero; "The Merchant of Venice" spins two yarns which essentially have nothing in common; and so M. Pellissier runs on, with mounting indignation, and cites a dozen cases quite as bad or worse. He admits, to be sure, that the French demand for relevancy may be pushed too far, and he does not believe that every element in a play need bear definitely on the solution of the main problem. He thinks his fellow-countrymen simplify and unify too much. But Shakespeare not only breaks the arbitrary and needless rules, he violates the essential laws of dramatic composition. Far from being the master of this craft that critics call him, he is in fact the worst of bunglers.

> Assuredly the best-made plays are not always the best. And who would prefer Ben Jonson to Shakespeare? But all that we would prove is that the plays of Shakespeare are badly constructed, that they scatter themselves about at random, that the development is sometimes rushed, sometimes tediously retarded, that we find at every turn digressions, delays, and gaps, and that in short the action almost always lacks that sequence and coherency which by the fundamental laws of dramatic construction it ought to possess.

In "The Merchant of Venice" Shakespeare does not even respect the rules of simple arithmetic, for when Jessica tells Portia that she has overheard Shylock say that he loves the pound of Antonio's flesh more than twenty times three thousand ducats, Portia offers at first to pay him six thousand, and later says she will double it if necessary, and even triple that result. But, says M. Pellissier, this is by no means the right amount: "Twenty times the sum due is sixty thousand ducats, and $6{,}000 \times 2 \times 3$, is only thirty-six thousand, a little more than half." He finds "The Merchant of Venice," indeed, very objectionable from almost every point of view: Its moral teachings are bad, as when Bassanio wins Portia's hand in the casket test, though he deserved no better than either of the other suitors; it tells two stories instead of one; and above all it

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drags along through an utterly worthless fifth act, when a few words added to the fourth would have supplied all that was necessary. The fact that this same worthless fifth act contains some of the finest and most familiar lines in all Shakespeare's writings does not concern him, if indeed he ever observed it. Punctuality, not poetry, is the thing.

Our critics admire here "the inexhaustible wealth of Shakespeare, fecund and prodigal as nature." But nature is one thing, art is another; and in dramatic construction a just economy seems preferable to a prodigality without discernment.

Moreover, the last act of "The Merchant of Venice" is comedy, whereas the main part is serious drama, and to mix the two things up in this manner is not permissible. He groans at the shameful waste of time on light characters. He hates all those non-essential clowns, court fools, pedants, drunkards, thieves, eccentrics. What is the use of Dogberry and Verges? We find them first giving their tiresome instructions to their men; again, when they make their report to the governor, who is naturally much irritated by their *sottise;* again, in prison, questioning the accused; again before the governor; and once more after that. Even if these "two stupid police officers" were as amusing as Shakespeare probably thought them, they would still be absolutely useless; but as a matter of fact they are dull buffoons fit only for a vulgar street show. And what a waste of time are the fooleries of Sir Toby Belch, Sir Andrew Aguecheek, Touchstone, Lancelot Gobbo, Speed, Lance, Bottom, the Dromios, Poor Tom, the grave-diggers and players in "Hamlet," Mercutio, Trinculo, Stephano, and the rest. Like Bernard Shaw, he has an especial aversion for the melancholy Jaques—

JAQUES. I'll give you a verse to this note, that I made yesterday in despite of my invention.
AMIENS. And I'll sing it.
JAQUES. Thus it goes:

If it do come to pass
That any man turn ass,
Leaving his wealth and ease
A stubborn will to please.

Ducdame, ducdame, ducdame.
Here shall he see
Gross fools as he,
And if he will come to me.

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AMIENS. What's that "ducdame"?

JAQUES. 'Tis a Greek invocation to call fools into a circle. I'll go sleep if I can; if I cannot, I'll rail against all the first-born of Egypt.

What philosophy is there in this? asks M. Pellissier:

The critics present him as a type of humorist. Why not? I do not quite know how to define humor, but I have always believed it consisted in racking one's brain in order to draw from it some painful drolleries. He who has wit is never called a humorist; we call humorist the man who is trying to have it.

From these citations I think it will be plain to any one who at any period of his life has found an honest pleasure in reading Shakespeare that M. Pellissier has by an accident of birth been for ever debarred from sharing in it. To him, as to the usual commentator, Shakespeare is not a source of pleasure, but a task. Among us common, careless folk, Shakespeare is by no means a sad matter, but on that strange assiduous tribe who live in foot-notes he has laid a most grievous academic burden. Much as M. Pellissier hates Shakespeare, I doubt if he hates him any more than do many of the Shakespeare specialists. Nothing can persuade a mere layman that the Shakespeare scholar is not usually a man who privately loathes his Shakespeare. Otherwise, why their amazing marginal irrelevancies?

Act I., Sc. II., Line 20, Note 56. "*Biting.*" Often used metaphorically by Shakespeare. So of "*nipping.*" Cf. "a nipping and an eager air."

They write their notes, like school-boys marking up their text-books' margins. In Shakespeare's company and longing for escape, they pass the time in queer, superfluous labors, memory exploits, and verbal divagations, sometimes quoting all the passages that resemble a little the one in hand, sometimes all the lines they can think of that do not at all resemble it, not knowing what to do, yet bound to seem busy, hence elucidating, collating, amending, bickering with some other commentator fifty years dead, expounding prepositions, expounding anything, merely to relieve the awful tedium of being alone with Shakespeare. Hating poetry, they collect adverbs, or explain discrepancies in the time of day, or quote the moral reflections of some tired predecessor. I have seen a sentiment from Dr. Johnson which no free-born Anglo-American reader would remember for five minutes hoarded by these forlorn sub-Shakespearean creatures for five generations. And they are under no compul-

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sion. That is what puzzles the care-free layman—why this especially unsympathetic class of persons should have ever gone into the business at all, when there are chess, stamp-collecting, autographs, numismatics, golf, peace movements, book-plates, gardening, pressed flowers, social welfare work, taxidermy, solitaire—so many perfectly respectable occupations, at a safe distance from the hated bard.

The best thing in M. Pellissier's book—and for this alone it ought to be turned into English—is his merciless assault on the "Shakespeariolaters." He hoists them with their own petard. The same sort of pedantic reasons that they have presented for a hundred years as ground for loving Shakespeare are here urged with equal force as ground for hating him. The language of Shakespeare, as Professor Raleigh has said, "cannot be judged save by those whose ease of apprehension goes some way to meet his ease of expression." M. Pellissier lacks, of course, that ease, but so do, with less excuse, our professional Shakespeareans. He does not understand Shakespeare, but he does, I think, understand a pretty large class of Shakespeare commentators. If his book were put into English, it might have some value as an insecticide.

To conclude his railing accusation: Shakespeare is wholly lacking in invention. "Romeo and Juliet" does not tell its story so well as the novels from which it was taken. It has lasted and been more popular merely on account of its dramatic form. "Hamlet" is far more incoherent and irrational than the tale from Saxo Grammaticus on which it was founded; and it has only the interest of a riddle. As to morality, Shakespeare had hardly any sense of it. King Lear was a fool, and it is absurd to pity him. Othello was so great a dolt that his whole course of conduct seems utterly meaningless. Innocent people are punished; villains are changed into saints on the instant and receive the rewards of virtue. The victims of Macbeth do not deserve their fate. Macbeth himself was either a madman or the sport of destiny, and so his career has no moral application. Shakespeare's characters do not develop from within, but are mechanically altered to meet the stage necessities, as when the contempt of Benedick and Beatrice for each other is turned into love as a result of Don Pedro's stratagem. Moreover, ignoring the first principle of objective drama, he intrudes his own reflections at every point, comments, preaches, declaims through his characters. He mocks at

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truth and reason. He does not know how to pursue a thought any better than how to combine an action, and his tragedy generally consists in truculent harangues and his comedy in quips and puns. "Mirror of nature, if you will, but his huge and shapeless work exaggerates nature and swells her out, sometimes decorates her and sometimes makes her grimace." Unable to restrain his imagination, he fills the plays with incoherencies, brutalities, false pathos, horse-play, and quibblings, and delays the action with all manner of incompatible adventures and distracting episodes. In short, in spite of the many beauties in his work, it is, "take it all in all, an immense confusion. One would often think it the work of an inspired school-boy, who, having no experience, tact, measure, prematurely fritters away his abortive genius."

F. M. Colby.

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NEW BOOKS REVIEWED

PUBLIC OPINION AND POPULAR GOVERNMENT. By A. LAWRENCE LOWELL, President of Harvard University. New York: Longmans, Green & Company, 1913.

This book of President Lowell's, which forms a part of the "American Citizen Series," may be described as, in a good sense, a glorified text-book—which is to say that its carefully considered method and scope, its economy of expression and proportion of treatment sharply distinguish it from all mere collections of essays or occasional addresses, while by virtue of its breadth of view and its graceful sincerity of style it rises clear out of the class of ordinary text-books or technical treatises. President Lowell is one of the few who can be subtly analytical without becoming pedantic, and his analysis of the terms "Public" and "Opinion" is something more than a discussion about words. With the resourcefulness of a skilled writer he develops and illustrates the conclusion that, "in order that opinion may be public a majority is not enough and unanimity is not required, but the opinion must be such that while the minority may not share it, they feel bound by conviction, not by fear, to accept it." There follows a pleasant and acute discussion of the reality or unreality of opinions, in which it is recognized that opinions adopted from others may be real if they form an integral part of the believer's philosophy, but otherwise the genuineness of an opinion depends upon personal judgment of the facts. The application of public opinion, therefore, has natural limits. "Even in the most firmly established democracies there are questions touching a chord of feeling so deep that the minority would not voluntarily submit to the decision of a majority." Nor can there be any true application of public opinion in cases where the essential facts are not accessible to the majority or not easily grasped by them.

One would not know where to look for a better brief discussion of the functions of parties than President Lowell has given in Part II. of his book. The correlation of this subject, with the general truths that we live in "an age of advertisement" and in an "age of brokerage," is striking and logically sound. In general, the author's view of party government, which is tolerant and many-sided, amounts to a moderate defense of the system. On the other hand, his attitude, as developed in Part IV., toward such devices as direct primaries, the initiative, the referendum and recall, is skeptical, although he repeatedly emphasizes the thought that no one argument or fact may be regarded as conclusive against them. "One panacea of promise in its day," he remarks, was representative government; another was universal suffrage; a third, the checks and balances

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of the American constitutional system. The debasement of party government in the United States has been traced to the State and National nominating conventions which replaced the party caucuses in the legislatures and in Congress; but, in fact, the convention was adopted because the legislative caucus was thought undemocratic. Let us not be led astray by generalizations. Each institution has its limitations and will work well only within those limits."

As significant as any part of the book is the fourth and last division, which deals in chief with the employment of experts, administrative and other, in popular government. The lesson of European cities is taken to heart, and the frequently ignored fact is pointed out that examples of expert management controlled by representatives of the public are to be found throughout the political system of England. This part of the discussion flows with beautiful clearness from the theoretic consideration of public opinion as limited by the possibility of knowing the facts. Indeed, throughout the treatise the manner in which the author keeps within the formal limits of his titular theme and logically carries out its point of view constitutes a rare merit. But in this book one gets beyond theories and "idols of the tribe" to essential facts, both material and psychological. Everywhere there is evidence of that refined common sense which absorbs and sifts special knowledge instead of being warped or overloaded by it—a gift which at its highest is possessed by few scholars. It is not too much to say that *Public Opinion and Popular Government* is worth every one's reading. The volume has statistical value as containing two appendices embodying what is said to be the most complete view of the practice of the initiative and referendum which has thus far been given.

OUR FRIEND JOHN BURROUGHS. By CLARA BARRUS. Boston and New York: Houghton Mifflin Company, 1914.

There is a good deal of John Burroughs's self in this book about him, although, perhaps, what it adds to the impression one gains from his writings is not greatly important. The discourse is just a bit idolatrous in tone, and may even awaken a slight sense of protest in the hearts of some of the less "tender-minded," who do not relish the flavor of a cult. Still, it is chatty and agreeably atmospheric, not too exclamatory or effusively appreciative. It is the kind of book in which one finds here and there interesting bits. There is, for instance, the story Mr. Burroughs told the author about his first sight of Emerson: "It was at West Point during the June examinations of the cadets. Emerson had been appointed by President Lincoln as one of the board of visitors. . . . I did not hear him speak, but watched him going about, with a silk hat, much too large, pushed back on his head; his sharp eyes peering into everything, curious about everything. 'Here,' said I to myself, 'is a countryman who has got away from home and intends to see all that is going on'—such an alert, interested air!" Walt Whitman, too, enters with familiar gusto. "He used to take Sunday breakfasts with us in Washington," said John Burroughs. "Mrs. Burroughs makes capital pancakes, and Walt was very fond of them; but he was always late to breakfast. The coffee would boil over, the griddle would smoke, car after car would go jingling by, and no Walt. Sometimes it got to be

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a little trying to have domestic arrangements so interfered with; but a car would stop at last, Walt would roll off it, and saunter up to the door—cheery, vigorous, serene, putting every one in a good humor. And how he ate!"

By far the best parts of the book are the autobiographical sketches—letters from John Burroughs which the author has reproduced without change. And here we have, if no very striking or connected tale of outward experience or inner growth, characteristic John Burroughs talks, sunshiny, substantial, as real as the most commonplace incidents of ordinary lives, yet anything but dull or commonplace themselves. The writer builds up no romantic illusions, but his truth transforms everything to gold. He dwells affectionately on the past, bringing it back when he chooses with atmosphere, but without mistiness. His father, he tells us, did not like his son's tendency to books: "He was afraid, as I learned later, that I would become a Methodist minister—his pet aversion." When the boy asked him for an algebra, he inquired, "What is an algebra?" and refused the money. On the father's side of the family were "no fishermen, or hermits, or dreamers," but there was a marked and outspoken religious strain. But "Grandfather Kelly was a lover of solitude, as all dreamers are, and Mother's happiest days, I think, were those spent in the fields after berries. The Celtic element, which I get mostly from her side, has no doubt played an important part in my life. My idealism, my romantic tendencies, are largely her gift." In the mood of easy reminiscence, he tells the inconsequential but delightful story of how his grandfather, "when a boy in Connecticut, once put his hand in a bluebird's nest and felt, as he said, 'something comical'; he drew out his hand, which was followed by the head and neck of a black snake; he took to his heels, and the black snake after him. (I rather think that's a myth.) He said his uncle, who was plowing, came after the black snake with a whip, and the snake slunk away. He thought he remembered that," adds John Burroughs. "It may be a black snake might pursue one, but I doubt it." This is the kind of tale story-writers prize and sometimes try to make much of, with the result of spoiling it. A touch like the "something comical" is one that genius unaided by memory could hardly supply.

Literary feeling and the habit of observation began too early for analysis to throw much light on them. John Burroughs remembers the impressions made upon him by a passage in the *Life of Washington* "when he was not more than six or seven years old, and how while playing about the house with his brother Hiram he would frequently stop and read this passage aloud. His "nature study" had nothing in common with the modern systematic "peeping and prying"; that sort of thing, he thinks, would have cured him of his love of nature. "What, or who as I grew up, gave my mind its final push in this direction would not be easy to name. It is quite certain that I got it through literature, and more especially through the works of Audubon when I was twenty-five or twenty-six years of age." Indeed, he does not so much attempt the impossible task of accounting for his literary tastes as write eloquently about Emerson: "What a bold front he did put on in the presence of the tyrannies of life! He stimulated us by a kind of heavenly bragging and saintly flouting of humdrum that ceases to impress us as we grow old." The whole passage is worthy to become a *locus classicus*. Emerson,

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indeed, nearly proved a dominating literary influence: Mr. Burroughs once wrote an essay, unconsciously Emersonian, which went into *Poole's Index* as by Emerson, and was attributed to the same great source by Professor Hill of Harvard, who quoted a line from it in his *Rhetoric*. When the author saw his essay "through the perspective of print," he promptly decided that that sort of thing wouldn't do, and, turning to nature, developed his own characteristic style. Comparing himself with Stevenson, whose facility he envies, Mr. Burroughs draws a distinction that is rather an important line of cleavage in literature. "Stevenson had no burden of meaning to deliver, . . . but he certainly could invest common things and thoughts with rare grace and charm. . . . I could not grow eloquent over a broomstick, unless it was the stick of the broom that used to stand in the corner behind the door in the old kitchen at home." Those who care greatly for intimate details will find much in this book, and the parts that John Burroughs wrote himself are thoroughly good.

THE TRAGEDY OF POMPEY THE GREAT. By JOHN MASEFIELD. New York: The Macmillan Company, 1914.

In reading this play of Mr. Masefield's it is, unfortunately, difficult to get over the feeling that the thing is a rather pale modern equivalent of an Elizabethan "history." One sympathizes heartily, of course, with the motive that has led the author to avoid at all costs any effect of stately stiffness—even though such a line as, "Oh, my dear, beloved master! I'm that drove mad, I can hardly talk of it," falls somewhat notably short of the Shakespearean standard. There is, indeed, in this drama much of Mr. Masefield's characteristic actuality, his power of realizing emotion, and of making a crisis seem real and imminent. His scenes are animated; there is a real stir of life in them; in Pompey's household a genuine distraction is portrayed, and the reader is made to feel the reaction of great issues pending in the world outside. And yet there is something lacking. One doesn't like to lay stress on the point that there is nothing particularly Roman in the characters of Pompey and Metellus Scipio, for surely it is infinitely better to represent these historic persons as resembling modern business men weighted down by heavy cares and troubled by human feelings in the midst of terrible responsibilities than to make them mere classic figureheads, declamatory and modern. Nevertheless, the doctrine that human nature is a constant may be carried somewhat too far; the Elizabethans were not as we, nor was the Roman undertone of thought and feeling of quite the same quality as ours: one would like to make every one realize that Cæsar's *Commentaries* are as interesting, and in a way as modern, as the most recent book of military memoirs, yet the difference remains. And the difference really needs to be expressed—in manner and in manners—as Mr. Masefield has expressed it. When we read a play of which the scene is ancient Rome, we want to feel as if we had been transported thither—not as if Scipio and Pompey had walked into our library in modern garb and sat down to discuss their affairs. Cato, moreover, in this play, seems little more than a voice of lamentation and foreboding: so far as we are able to seize his character at all, we apprehend him as somewhat shrill and feminine. The note of *severitas* is generally absent, and in connection with Pompey himself one feels rather more pathos than heroism. A speech

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of Cornelia's is quite typical of the kind of modernness Mr. Masefield gives us: "It is a question now, dear heart, of standing for the right. The right side is always the weaker side. War is terrible. It's such a loathsome kind of spiritual death." And again it is difficult to conceive of a Roman woman's speaking of "going out under the eagles to defend that burning thought, the Will of Rome." The phrase is modern, romantic.

The persons of the play are by no means mere puppets; so far as the author's rather slender dramatic portraiture enables us to see them, they seem alert, quick-feeling, quick-thinking human beings. But at bottom they are motivated, electrified to life, by the author's poetic feeling rather than by any profound conception of character: they are temporary vehicles for the expression of emotions—emotions that lack the substance of character. The play affects one somewhat as a succession of rather empty musical chords; not that emotion lacks due occasion, but that feeling is not sufficiently interfused with the interest of personality. The one element that might conceivably have raised the piece to a level with, for example, the poetic dramas of Swinburne is lacking: the play is written not in verse, but in a rather musical, flexible prose. More moving than most things in the play is the epilogue:

"Pompey was a great Captain, riding among Kings a King,
Now he lies dead on the sand, an old blind tumbled thing.
Fate has her secret way to humble captains thus;
Fate comes to every one and takes the light from us,
And the beginning and the end are darkened waters where no lights be,
But after many days the brook finds ocean,
And the ship puts to sea."

On the whole, one cannot help approving in a measure Mr. Masefield's naturalistic handling of a classic theme; yet surely there is a note of grandeur in human affairs for which Rome has proverbially stood, and in the *Tragedy of Pompey the Great* much of this effect is lost in sentiment.

RELIGION AND LIFE. By ELWOOD WORCESTER, Rector of Emmanuel Church, Boston. New York: Harper & Brothers, 1914.

Dr. Worcester has written a forceful and persuasive exposition of Christianity as a living power in the world and as a believable body of doctrine—an exposition which expresses and interprets the newer attitude toward religion. This attitude is not easy to define in a few words, for it is the resultant of many intellectual causes. Gradually there has come about a great clearing of the religious atmosphere. In the first place, the true character of Jesus and the nature of his religion have become unmistakably plain. "Much as still remains to be done in the life of the Lord," writes Dr. Worcester, "we have reached a point at which it is impossible to make the Christian Religion mean what we wish it to mean. In other words, we cannot falsify and alter the teachings of Jesus any longer to suit our own purposes." In the second place, metaphysical and doctrinal difficulties now seem less formidable than they have appeared in the past: men are readier to believe that with God all things are possible. Science, which once made men agnostic, now rather strengthens the power of belief, and faith, instead of rejecting the knowledge of science and common experience, merely seeks to go farther than they along the same road.

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Dr. Worcester's chapters upon such subjects as "Christianity and the Social Question," "The Law of Increase," "The Good Samaritan," "Idealism and Devotion," serve a threefold purpose. Written from an avowedly Christian viewpoint, they are exhortations to faith; they are also resolute and frank applications of Christian doctrine to life; and finally they serve as pragmatic arguments for belief, since they show the need and practical efficiency of religion in the world's affairs. Even more interesting than these are the chapters which deal with the more personal aspects of religion. The belief that repentance and faith can make over a man's character almost in an instant can no longer be regarded as a mere affirmation of sentiment or dogma; the miracle of sudden "conversion" is as well attested as any of the miracles of science. In one case, of which the author tells, a man of force and education, after relating in detail the story of his complete ruin and downfall—a story almost wholly devoid of redeeming features—was induced to kneel and ask forgiveness of God. "He knelt in silence for perhaps five minutes. When he rose he looked at me and I saw something in his face which was not there before. He said very quietly, 'God has heard my prayer, and I am saved.' . . . The vice and evil which had desolated his life simply ceased, and in this place a character of such purity, sweetness, and unselfishness was born that I cannot speak of it without shame to myself."

Significant of the author's point of view is his discussion of prayer. Religious intuition has always upheld the efficacy of prayer, and the experiences and observations of Dr. Worcester convince him, independently of faith, that prayer is a power incalculably great but ill understood. There was a time when the question chiefly raised was the question of failure: how can it be that we sometimes ask and do not receive? Now it has become possible to shift the ground and ask how it is that prayer ever succeeds. Dr. Worcester suggests that without surrendering present faith we may hope that science in the future will teach us vastly more than we know now concerning the nature and use of this mysterious influence. "Sometimes we pray with conviction and power, and our prayers are mighty and effective. In some way we have fulfilled the necessary conditions and have come in contact with the Source of power, but we know not how we did it. Sometimes for weeks and months our prayers seem to rise no higher than the ceiling of our rooms and to accomplish nothing, yet we know not why. Should we understand prayer as Jesus understood it, all things would be possible to us; but we are groping amid the very rudiments of it."

Religion and Life is not, of course, a formal effort to establish the truths of Christianity on rational grounds, nor does the author advance any one definite thesis. But perhaps the book will accomplish more than could a formal argument. In many different ways it imparts the invigorating assurance that there is nothing contrary to science or common sense in believing that life is at bottom a spiritual affair.

LITTLE ESSAYS IN LITERATURE AND LIFE. By RICHARD BURTON. New York: The Century Company, 1914.

The essays contained in this volume are indeed "little," in the sense of brevity, and some of them are on rather hackneyed themes. There are no originalities of the first water in the book, but there are no mere

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artificialities, mannered as the author's style sometimes seems. Professor Burton is incorrigibly literary, but we feel that he is heartily human too, and that insincerity is a thing his soul abhors. In the beginning, one may be, unfortunately, a little repelled by an apparent conventionality in the treatment of such subjects as "Immemorial Fires" and "The Miracle Called Spring"; but if the reader is lured to read on, which is not unlikely, he will find that the author has much to say, says it modestly, and with no little point. It is something to have found anything so good as, "The tragedy of growing old is that you feel so young," to say on a theme that has been written about by (among others) Cicero and Holmes. "The irony of success lies in its looking so successful" is a nutshell with a kernel in it, and the phrase "helpless gregariousness" as descriptive of those who "sit about in overlighted, stuffy rooms at summer resorts" is illustrative of an occasionally refreshing quality of expression. But the virtue of the book is not to any great extent epigrammatic. The author, indeed, seems quite willing to let his thought go clothed in others' garb, provided only the spirit be truly his. He quotes with great freedom: he cites Longinus, Solomon, the Declaration of Independence, writers of all sorts and ages, with facility and appositeness. There is always something taking in this Emersonian way of drawing in wisdom from all sources and using it for the present purpose with no false sense of congruity. It is done in the spirit of one who is really free of the literary commonwealth. The essays are agreeably bookish, and they are all warm with idealism. Professor Burton, half as scholar, half as poet, sets forth what may be called the literary gospel—the faith in the goodness and beauty of things that exist independently of religious teaching. He pleads for a poetic view of life compatible with common sense, and makes us feel that if we want to be happy we must truly cultivate the youthful side of ourselves, but that this cannot easily be done unless we cultivate also the arts of reflection and literary enjoyment as parts of the great art of living. More than once he says the obviously right thing with an unpretentiousness that leaves the sanity of his view almost too unimpressive. Writing of "matter-of-fact fiction," he remarks: "We can agree with Howells that the commonplace is precious, and yet leave room for the uncommon. And we cannot assent to the thing we know, yet welcome the fascinating hitherto unknown, for these larger experiences help us to grow."

HEBREW AND BABYLONIAN TRADITIONS. By MORRIS JASTROW, Jr., Ph.D., professor of Semitic languages in the University of Pennsylvania. New York: Charles Scribner's Sons, 1914.

Professor Jastrow's treatise, which is composed of the Haskell lectures delivered at Oberlin College in 1913, and since revised and enlarged, is highly readable; the treatment is on the whole popular rather than technical, although it is characterized by the conscientious accuracy and conservatism of scholarship. In expounding a complex subject, as full of uncertainty as of interest, the author's definiteness of aim and his unmistakable, consistent emphasis on the points he deems of most importance are most helpful.

When through a brief review of the historic evidence, we have been made to see the probability that Hebrews and Babylonians belonged to a common

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racial stock, and to realize the numerous interactions and shiftings of population that went on between the two peoples in ancient times, the many resemblances between the Hebrew and Babylonian traditions become manifest without the need of much formal argument. It is upon the differences that the author has chosen to lay most stress. In the Biblical accounts of creation there is plainly much of the substance of the Babylonian story; there are traces of the Babylonian imagery and conception in the Psalms and notably in the Book of Job. But the point that comes out clearest is that, while the Babylonian accounts remain on the level of nature myths, the Hebrew version retains only so much of what is material and unspiritual as was necessary to embody the sentiment of popular tradition. In the first of the two Biblical accounts of creation which are joined in the Book of Genesis we find the literal words for "watery waste" and "void" in place of the personified forces of nature which appear in Babylonian narrative. The Hebrew story, moreover, substitutes a noble dignity and brevity, conducive to an ethical purpose, for the luxuriant literal detail of myth. In the second of the two Biblical stories, the conception of a tree of knowledge of good and evil is purely Hebrew, and it takes the place of the older conception of two trees, one of life and one of death. The corresponding Babylonian narrative tells how, through the intervention of a minor deity, man forfeited the chance of immortality offered him by the high gods, through his refusal to partake of the "food of life and the water of life." Of a similar conception there is a trace, but only a trace, in Genesis. In the same spirit the author compares the Hebrew and Babylonian ideas of the Sabbath, of immortality, and of ethics. In the Old Testament there are many indications, inconspicuous but significant, which tend to show that among the Jews the observance of the Sabbath was originally, as among the Babylonians, connected with the periods of the moon. But in time the conception was spiritualized. The idea of immortality underwent a similar transformation through prophetic teachings and national calamity. It is a little surprising to find that, apart from the cruelties of war, Babylonian ethical ideals were rather high. Babylonian and Assyrian ethics, however, "failed to find the corrective to the materialistic conception of life which is an unavoidable outcome of what we ordinarily regard as the progress of civilization." Professor Jastrow does full justice to the richness and variety of his theme, suggesting a number of interesting points of view and setting forth many curious matters of fact, while he devotes himself mainly to the work of conscientiously tracing a process of historic evolution in several of its most important aspects.

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LETTERS TO THE EDITOR

OUR MEXICAN POLICIES

EAST WALPOLE, MASS.

SIR,—I read yesterday in the Boston *Sunday Herald* an article written by you on the Mexican policy of the Democratic Administration.

I want to congratulate you. It is a wonderful, clear, vigorous, straightforward statement and ought to do a great deal of good.

I wish it could be put into the hands of every citizen of this country. We are drifting upon the rocks, and nothing, perhaps, will save us, save public opinion, which would be exercised if your article could be read by every one.

CHARLES SUMNER BIRD.

NEW YORK.

SIR,—It was with the deepest interest and most sincere approval that I read your article, "We Appeal to the President," in the April number of THE NORTH AMERICAN REVIEW. Oh that he had heeded and followed the suggestions therein expressed! It would seem as though his sentiments so aptly quoted by you would have led him to reconsider his decision not to recognize Huerta as the head of the Government of Mexico. It was the sole concern of the Mexican people who was to be their head and in control of their Government; and the sole concern of other nations that the persons of their citizens and their property should be protected.

Mr. Wilson's personal sentiments toward Huerta, and his approval or disapproval of his actions in getting control of the Government, were totally insufficient to justify his refusal to recognize the actual government. Whether or not he has been misled by his sentimental Secretary of State, we can only lament the dreadful pass he has brought us to.

J. R. S.

NEW YORK.

SIR,—I want to thank you for your very able arraignment of our Government's policy toward Mexico. It has the right ring to it, without mincing matters or being personal. You speak as nine-tenths of our people feel who have feeling on this subject, but fail to and are unable to express same in such unsurpassed manner as you do. Your analysis of this all-important subject will be read by hundreds of thousands, and no doubt the Press of this country so long dormant will take heart and at least discuss your views. Would to God that our President had at least

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one such fearless and able adviser in his Cabinet as you have proved yourself to be! Trusting your efforts will bear fruit and soon bring about the desired result, and with great admiration and appreciation of your manly advice, I am,

J. R. De Lamar.

Baltimore.

Sir,—Having been a reader of The North American Review for the past three years, I am taking the liberty of addressing you concerning what appears to be "A Mexican Lesson."

Since the overthrow of the late President Madero, some fourteen months ago, this country has been face to face with what was generally referred to as the Mexican situation. Last month the so-called Tampico incident changed the Mexican situation into the Mexican crisis. As yet no one would care to prophesy what will come out of it all, but one undeniable fact has stood forth clearly and distinctly. The fact is that the present Administration's attitude toward Mexico and *de facto,* or self-styled, President Huerta has been diametrically opposed to the all but universal attitude of those men, here and abroad, trained and experienced in foreign affairs. In spite of this, the point of view of the average American has been that of casual or indifferent acquiescence. This undoubtedly was due in part to the American sense of fair play toward a new Administration. But it was also due, in great part, to the almost inborn feeling that, after all, foreign affairs and diplomacy are more or less of a joke. However, the marines shot at Vera Cruz, and the expenditure entailed so far affords better food for thought than laughter. It brings home the connection 'twixt diplomacy and war. It shows clearly the very practical value of the United States availing itself of the best possible talent in the Department of State and diplomatic service, especially as regards countries south of us. Furthermore, it indicates the danger of believing, as Mr. Bryan and so many Americans do, that "good intentions, high aspirations, and fine emotions are a substitute for clear thinking and exact knowledge."

In a case of illness people feel safer and happier when it is being attended by an experienced and qualified M.D. The doctor's knowledge and training can then be trusted to, as well as luck. The Mexican illness may be cured, or may not be cured—*quien sabe?* But as cases of this sort will arise, wouldn't it be wiser, wouldn't it pay better, for this nation to know that, no matter what happens, it has, at any rate, the services of the very best M.D.'s obtainable in the field of foreign affairs and diplomacy?

H. C. Black.

CANAL-TOLLS EXEMPTION

Boston.

Sir,—As a lawyer of modest though twenty years' practice, allow me to congratulate you upon your very able presentation of the Canal tolls question, with whose conclusions I entirely agree.

I had been so distressed with the mass of irrelevant argument both in and out of Congress on this subject that I sent to my local paper, the Woburn *Daily Times,* an article which I inclose. I was educated on this question by the masterly speech of Senator Root in the Senate, January 21, 1913.

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My residence city is an industrial community ten miles from Boston, and there was so much misunderstanding of the issue that I determined that my townspeople should know something of Root's speech. I hope your own article will be read by every one who thinks at all on the subject.

I do not send you this clipping to burden you with the reading of it, but to show that, despite the popularity of tolls exemption, there are some local voices in local wildernesses trying to get a hearing for tolls repeal.

I am naturally elated at your able presentation, and again express to you my sincere congratulations on this splendid service of yours to the public.

SAMUEL W. MENDUM.

MORRISTOWN.

SIR,—You do not need any words of appreciation from me, but I am going to get them out of my system, just the same. The way you dissect great questions of the day fills me with admiration and helps to dispel pessimism, which threatens me. I have just finished a careful reading of your paper on the Panama Canal tolls question.

It is courageous, exhaustive, non-partisan, and does not remind us of that very apparent fault of the day in this country—failure to recognize that every question has at least two sides or there would be no question.

Yours sincerely,

A. C. H.

CHICAGO.

SIR,—I have been greatly interested in your editorials in regard to the Panama Canal tolls. It has occurred to me that a good deal of trouble might have been saved if the wording had been followed of one of the first treaties or agreements made with Great Britain.

Article 14, or the last article of the Capitulation of Yorktown, reads as follows: "No article of the Capitulation to be infringed on any pretext of reprisal; and if there be any doubtful expressions in it, they are to be interpreted according to the common meaning and acceptation of the words.

"Done at York in Virginia
the 9th of October, 1781.
Signed) Cornwallis
Thos. Symonds."

W. C. H.

ASHEVILLE, N. C.

SIR,—In connection with your article, "Why the President is Right," have you the time and inclination to respond to a question which I should very much like to have answered? We appropriated the land for the Panama Canal, land to which Great Britain could lay no claim; we built and paid for construction of the canal. Now, why was it necessary for us to make treaties with England regarding tolls, and, if necessary, why not with other countries?

E. SPRINGER.

Because, fifty years before we acquired the right of way, we entered into a treaty with Great Britain agreeing that all nations should have equal rights in the use of a canal, by whomsoever or wherever it might be built. It is simply a question of keeping faith.—EDITOR.

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